

## **APPENDIX**

1. Title 2. Protection of Laborers (Texas)
2. 1796 Constitution of the state of Tennessee
3. 1835 Constitution of the state of Tennessee
4. 1870 Constitution of the state of Tennessee

**TITLE 2. PROTECTION OF LABORERS  
SUBTITLE A. EMPLOYMENT DISCRIMINATION  
CHAPTER 21. EMPLOYMENT DISCRIMINATION  
SUBCHAPTER A. GENERAL PROVISIONS**

**§ 21.001. Purposes**

The general purposes of this chapter are to:

- (1) provide for the execution of the policies of Title VII of the Civil Rights Act of 1964 and its subsequent amendments (42 U.S.C. Section 2000e et seq.);
- (2) identify and create an authority that meets the criteria under 42 U.S.C. Section 2000e-5(c) and 29 U.S.C. Section 633;
- (3) provide for the execution of the policies embodied in Title I of the Americans with Disabilities Act of 1990 and its subsequent amendments (42 U.S.C. Section 12101 et seq.);
- (4) secure for persons in this state, including persons with disabilities, freedom from discrimination in certain employment transactions, in order to protect their personal dignity;
- (5) make available to the state the full productive capacities of persons in this state;
- (6) avoid domestic strife and unrest in this state;
- (7) preserve the public safety, health, and general welfare; and
- (8) promote the interests, rights, and privileges of persons in this state.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, § 9.01(a), eff. Sept. 1, 1995.

**§ 21.015. Texas Workforce Commission Civil Rights Division.**

The powers and duties exercised by the Commission on Human Rights under this chapter are transferred to the Texas Workforce Commission civil rights division. A reference in this chapter to the "commission" means the Texas Workforce Commission civil rights division.

**§ 21.002. Definitions**

In this chapter:

- (1) "Bona fide occupational qualification" means a qualification:
  - (A) reasonably related to the satisfactory performance of the duties of a job; and
  - (B) for which a factual basis exists for the belief that no person of an excluded group would be able to satisfactorily perform the duties of the job with safety or efficiency.
- (2) Repealed by Acts 2003, 78th Leg., ch. 302, §1, eff. Mar. 1, 2004.
- (3) Repealed by Acts 2003, 78th Leg., ch. 302, §1, eff. Mar. 1, 2004.
- (4) "Complainant" means an individual who brings an action or proceeding under this chapter.
- (5) "Demonstrates" means meets the burdens of production and persuasion.
- (6) "Disability" means, with respect to an individual, a mental or physical impairment that substantially limits at least one major life activity of that individual, a record of such an impairment, or being regarded as having such an impairment. The term does not include:
  - (A) a current condition of addiction to the use of alcohol, a drug, an illegal substance, or a federally controlled substance; or

- (B) a currently communicable disease or infection as defined in Section 81.003, Health and Safety Code, or required to be reported under Section 81.041, Health and Safety Code, that constitutes a direct threat to the health or safety of other persons or that makes the affected person unable to perform the duties of the person's employment.
- (7) "Employee" means an individual employed by an employer, including an individual subject to the civil service laws of this state or a political subdivision of this state, except that the term does not include an individual elected to public office in this state or a political subdivision of this state.
- (8) "Employer" means:
  - (A) a person who is engaged in an industry affecting commerce and who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year;
  - (B) an agent of a person described by Paragraph (A);
  - (C) an individual elected to public office in this state or a political subdivision of this state; or
  - (D) a county, municipality, state agency, or state instrumentality, regardless of the number of individuals employed.
- (9) "Employment agency" means a person or an agent of the person who regularly undertakes, with or without compensation, to procure:
  - (A) employees for an employer; or
  - (B) the opportunity for employees to work for an employer.
- (10) "Labor organization" means a labor organization engaged in an industry affecting commerce. The term includes:
  - (A) an organization, an agency, or an employee representation committee, group, association, or plan engaged in an industry affecting commerce in which employees participate and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment;
  - (B) a conference, general committee, joint or system board, or joint council that is subordinate to a national or international labor organization; and
  - (C) an agent of a labor organization.
- (11) "Local commission" means a commission on human relations created by one or more political subdivisions.
- (12) "Political subdivision" means a county or municipality.
- (13) "Respondent" means the person charged in a complaint filed under this chapter and may include an employer, employment agency, labor organization, or joint labor-management committee that controls an apprenticeship or other training or retraining program, including an on-the-job training program.
- (14) "State agency" means:
  - (A) a board, commission, committee, council, department, institution, office, or agency in the executive branch of state government having statewide jurisdiction;
  - (B) the supreme court, the court of criminal appeals, a court of appeals, or the State Bar of Texas or another judicial agency having statewide jurisdiction; or
  - (C) an institution of higher education as defined by Section 61.003, Education Code.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, § 9.02(a), eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 834, § 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 872, § 10, eff. Sept. 1, 1999.

**§ 21.003. General Powers and Duties of Commission**

(a) The commission may:

- (1) promote the creation of local commissions on human rights by cooperating or contracting with individuals or state, local, or other agencies, public or private, including agencies of the federal government and of other states;
- (2) receive, investigate, seek to conciliate, and pass on complaints alleging violations of this chapter;
- (3) file civil actions to effectuate the purposes of this chapter;
- (4) request and, if necessary, compel by subpoena:
  - (A) the attendance of necessary witnesses for examination under oath; and
  - (B) the production, for inspection and copying, of records, documents, and other evidence relevant to the investigation of alleged violations of this chapter;
- (5) furnish technical assistance requested by a person subject to this chapter to further compliance with this chapter or with a rule or order issued under this chapter;
- (6) recommend in its annual report legislation or other action to carry out the purposes and policies of this chapter;
- (7) adopt procedural rules to carry out the purposes and policies of this chapter; and
- (8) provide educational and outreach activities to individuals who have historically been victims of employment discrimination.

- (b) The commission by rule may authorize a commissioner or one of its staff to exercise the powers stated in Subsection (a)(4) on behalf of the commission.
- (c) The commission biennially shall develop an inventory of equal employment opportunity policies and programs adopted and implemented by the various state agencies.
- (d) The commission at least annually shall make a comprehensive written report to the governor and to the legislature.
- (e) The commission shall conduct a study of the policies and programs of a selected state agency if the commission is directed to conduct the study by legislative resolution or by executive order of the governor.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, § 9.03(a), eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 872, § 11, eff. Sept. 1, 1999.

**§ 21.0035. Civilian Workforce Composition**

(a) The commission by rule shall biennially determine:

- (1) the percentage of the statewide civilian workforce composed of:
  - (A) Caucasian Americans;
  - (B) African Americans;
  - (C) Hispanic Americans;
  - (D) females; and
  - (E) males; and
- (2) the percentage of the statewide civilian workforce of the groups listed in Subdivision (1) according to the following job categories:
  - (A) state agency administration;



- (B) professional;
- (C) technical;
- (D) protective services;
- (E) paraprofessional;
- (F) administrative support;
- (G) skilled craft; and
- (H) service and maintenance.

(b) The commission shall report the percentages of the statewide civilian workforce as determined under this section to the governor and the legislature not later than the fifth day of each regular session of the legislature.

Added by Acts 1999, 76th Leg., ch. 872, § 12, eff. Sept. 1, 1999.

#### **§ 21.004. Criminal Offense of Interference; Penalty**

- (a) A person commits an offense if the person wilfully resists, prevents, impedes, or interferes with the performance of a duty under or the exercise of a power provided by this chapter.
- (b) An offense under this section is a Class B misdemeanor.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.005. Effect on Other State or Federal Laws**

This chapter does not relieve a government agency or official of the responsibility to ensure nondiscrimination in employment as required under another provision of the state or federal constitutions or laws.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.006. Conformity With Federal Statutes**

If a provision of this chapter is held by the Equal Employment Opportunity Commission to disqualify the commission as a deferral agency or for the receipt of federal funds, the commission shall administer this chapter to qualify for deferral status or the receipt of those funds until the legislature meets in its next session and has an opportunity to amend this chapter.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.007. Privileged Communication; Immunity**

An oral or written statement made to a commissioner or an employee of the commission in connection with the discharge of the commissioner's or employee's duties under this chapter may not be the basis for an action for defamation of character.

Added by Acts 1995, 74th Leg., ch. 76, § 9.08(a), eff. Sept. 1, 1995.

#### **§ 21.008. Limited Severability**

- (a) If any clause, sentence, subsection, section, or other provision of this chapter or the application of such a provision to any person or circumstances is held invalid or unconstitutional, that invalidity shall not affect the other clauses, sentences, subsections, sections, or provisions or applications of this chapter that may be given effect without the invalid clause, sentence, subsection, section, or provision or application and shall not affect, invalidate, impair, or nullify the remainder of this chapter. The effect of the determination of invalidity shall be confined to the clause, sentence, subsection, section, or provision or application so adjudicated to be invalid or unconstitutional, and to that end the provisions of this chapter are declared to be severable.
- (b) If any limit on damages prescribed by Section 21.2585 is invalidated by a method other than by legislative means, the amount of civil liability for all past and future noneconomic losses, including past and future pain and suffering, mental anguish and suffering, and any other nonpecuniary damage, is limited to an amount not to exceed \$150,000.

- (c) If a limit on damages prescribed by Section 21.2585 is invalidated by a method other than by legislative means and if the alternative civil liability limits contained in Subsection (b) are also invalidated by a method other than by legislative means, Section 21.2585 is void.

Added by Acts 1995, 74th Leg., ch. 76, § 9.08(a), eff. Sept. 1, 1995.

#### **§ 21.009. Joinder of Commission**

- (a) In any civil action in which the validity of a provision of this chapter or Chapter 461, Government Code, a rule adopted under this chapter or Chapter 461, Government Code, or the application of the provision or rule is challenged as void, unconstitutional, or unenforceable, the commission shall be made a party to the proceedings, and, on the motion of the commission, venue of the cause may be transferred to the district courts of Travis County.
- (b) An order restraining the commission or invalidating a provision of this chapter or Chapter 461, Government Code, or a commission rule adopted under this chapter or Chapter 461, Government Code, may not be enforced and may not take effect until the commission has answered and appeared in the action and has exhausted all avenues of appeal and any judgment is final and enforceable.
- (c) Notwithstanding any other provision of state law, including this chapter, only the commission, if a prevailing party, may recover costs and attorney's fees in such a declaratory proceeding under this section.

Added by Acts 1995, 74th Leg., ch. 76, § 9.08(a), eff. Sept. 1, 1995.

#### **§ 21.010. Employment Discrimination Training for State Employees**

- (a) Each state agency shall provide to employees of the agency an employment discrimination training program that complies with this section.
- (b) The training program must provide the employee with information regarding the agency's policies and procedures relating to employment discrimination, including employment discrimination involving sexual harassment.
- (c) Each employee of a state agency shall attend the training program required by this section not later than the 30th day after the date the employee is hired by the agency and shall attend supplemental training every two years.
- (d) The commission shall develop materials for use by state agencies in providing employment discrimination training as required by this section.
- (e) Each state agency shall require an employee of the agency who attends a training program required by this section to sign a statement verifying the employee's attendance at the training program. The agency shall file the statement in the employee's personnel file.

Added by Acts 1999, 76th Leg., ch. 872, § 14, eff. Sept. 1, 1999.

### **SUBCHAPTER B. UNLAWFUL EMPLOYMENT PRACTICES**

#### **§ 21.051. Discrimination by Employer**

An employer commits an unlawful employment practice if because of race, color, disability, religion, sex, national origin, or age the employer:

- (1) fails or refuses to hire an individual, discharges an individual, or discriminates in any other manner against an individual in connection with compensation or the terms, conditions, or privileges of employment; or
- (2) limits, segregates, or classifies an employee or applicant for employment in a manner that would deprive or tend to deprive an individual of any employment opportunity or adversely affect in any other manner the status of an employee.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.052. Discrimination by Employment Agency**

An employment agency commits an unlawful employment practice if the employment agency:

- (1) fails or refuses to refer for employment or discriminates in any other manner against an individual because of race, color, disability, religion, sex, national origin, or age; or
- (2) classifies or refers an individual for employment on the basis of race, color, disability, religion, sex, national origin, or age.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.053. Discrimination by Labor Organization**

A labor organization commits an unlawful employment practice if because of race, color, disability, religion, sex, national origin, or age the labor organization:

- (1) excludes or expels from membership or discriminates in any other manner against an individual; or
- (2) limits, segregates, or classifies a member or an applicant for membership or classifies or fails or refuses to refer for employment an individual in a manner that would:
  - (A) deprive or tend to deprive an individual of any employment opportunity;
  - (B) limit an employment opportunity or adversely affect in any other manner the status of an employee or of an applicant for employment; or
  - (C) cause or attempt to cause an employer to violate this subchapter.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.054. Admission or Participation in Training Program**

- (a) Unless a training or retraining opportunity or program is provided under an affirmative action plan approved under a federal law, rule, or order, an employer, labor organization, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if the employer, labor organization, or committee discriminates against an individual because of race, color, disability, religion, sex, national origin, or age in admission to or participation in the program.
- (b) The prohibition against discrimination because of age in this section applies only to discrimination because of age against an individual who is at least 40 years of age but younger than 56 years of age.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.055. Retaliation**

An employer, labor union, or employment agency commits an unlawful employment practice if the employer, labor union, or employment agency retaliates or discriminates against a person who, under this chapter:

- (1) opposes a discriminatory practice;
- (2) makes or files a charge;
- (3) files a complaint; or
- (4) testifies, assists, or participates in any manner in an investigation, proceeding, or hearing.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.056. Aiding or Abetting Discrimination**

An employer, labor union, or employment agency commits an unlawful employment practice if the employer, labor union, or employment agency aids, abets, incites, or coerces a person to engage in a discriminatory practice.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.057. Interference With Commission**

An employer, labor union, or employment agency commits an unlawful employment practice if the employer, labor union, or employment agency wilfully interferes with the performance of a duty or the exercise of a power under this chapter or Chapter 461, Government Code, by the commission, the commission's staff, or the commission's representative.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.058. Prevention of Compliance**

An employer, labor union, or employment agency commits an unlawful employment practice if the employer, labor union, or employment agency willfully obstructs or prevents a person from complying with this chapter or a rule adopted or order issued under this chapter.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.059. Discriminatory Notice or Advertisement**

(a) An employer, labor organization, employment agency, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if the employer, labor organization, employment agency, or committee prints or publishes or causes to be printed or published a notice or advertisement relating to employment that:

- (1) indicates a preference, limitation, specification, or discrimination based on race, color, disability, religion, sex, national origin, or age; and
- (2) concerns an employee's status, employment, or admission to or membership or participation in a labor union or training or retraining program.

(b) This section does not apply if disability, religion, sex, national origin, or age is a bona fide occupational qualification.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.060. Violation of Conciliation Agreement**

A party to a conciliation agreement made under this chapter commits an unlawful employment practice if the party violates the terms of the conciliation agreement.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.061. Insufficient Evidence of Unlawful Practice**

In the absence of other evidence of an unlawful employment practice, evidence of the employment of one person in place of another is not sufficient to establish an unlawful employment practice.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**SUBCHAPTER C. APPLICATION; EXCEPTIONS**

**§ 21.101. Age Discrimination Limited to Individuals of Certain Age**

Except as provided by Section 21.054, the provisions of this chapter referring to discrimination because of age or on the basis of age apply only to discrimination against an individual 40 years of age or older.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.102. Bona Fide Employee Benefit Plan; Production Measurement System**

(a) Except as provided by Subsections (b) and (c), an employer does not commit an unlawful employment practice by applying different standards of compensation or different terms, conditions, or privileges of employment under:

- (1) a bona fide seniority system, merit system, or an employee benefit plan, such as a retirement, pension, or insurance plan, that is not a subterfuge to evade this chapter; or

- (2) a system that measures earnings by quantity or quality of production.

(b) An employee benefit plan may not excuse a failure to hire on the basis of age. A seniority system or employee benefit plan may not require or permit involuntary retirement on the basis of age except as permitted by Section 21.103.

(c) This section does not apply to standards of compensation or terms, conditions, or privileges of employment that are discriminatory on the basis of race, color, disability, religion, sex, national origin, or age.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.103. Compulsory Retirement Permitted for Certain Employees**

This chapter does not prohibit the compulsory retirement of an employee who is:

- (1) at least 65 years of age;

- (2) employed in a bona fide executive or high policy-making position for the two years preceding retirement; and

- (3) entitled to an immediate, nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan or a combination of plans of the employee's employer that equals, in the aggregate, at least \$27,000.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.104. Age Requirement for Peace Officers or Fire Fighters**

An employer does not commit an unlawful employment practice by imposing a minimum or maximum age requirement for peace officers or fire fighters.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.105. Discrimination Based on Disability**

A provision in this subchapter or Subchapter B referring to discrimination because of disability or on the basis of disability applies only to discrimination because of or on the basis of a physical or mental condition that does not impair an individual's ability to reasonably perform a job.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.106. Sex Discrimination**

- (a) A provision in this chapter referring to discrimination because of sex or on the basis of sex includes discrimination because of or on the basis of pregnancy, childbirth, or a related medical condition.
- (b) A woman affected by pregnancy, childbirth, or a related medical condition shall be treated for all purposes related to employment, including receipt of a benefit under a fringe benefit program, in the same manner as another individual not affected but similar in the individual's ability or inability to work.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.107. Effect on Abortion Benefits**

This chapter does not:

- (1) require an employer to pay for health insurance benefits for abortion unless the life of the mother would be endangered if the fetus were carried to term;
- (2) preclude an employer from providing abortion benefits; or
- (3) affect a bargaining agreement relating to abortion.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.108. Discrimination Based on Religion**

A provision in this chapter referring to discrimination because of religion or on the basis of religion applies to discrimination because of or on the basis of any aspect of religious observance, practice, or belief, unless an employer demonstrates that the employer is unable reasonably to accommodate the religious observance or practice of an employee or applicant without undue hardship to the conduct of the employer's business.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.109. Employment by Religious Organization**

- (a) A religious corporation, association, society, or educational institution or an educational organization operated, supervised, or controlled in whole or in substantial part by a religious corporation, association, or society does not commit an unlawful employment practice by limiting employment or giving a preference to members of the same religion.
- (b) Subchapter B does not apply to the employment of an individual of a particular religion by a religious corporation, association, or society to perform work connected with the performance of religious activities by the corporation, association, or society.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.110. Discrimination Based on National Origin**

A provision in this chapter referring to discrimination because of national origin or on the basis of national origin includes discrimination because of or on the basis of the national origin of an ancestor.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.111. Person Employed Out of State**

This chapter does not apply to an employer with respect to the employment of a person outside this state.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.112. Employees at Different Locations**

An employer does not commit an unlawful employment practice by applying to employees who work in different locations different standards of compensation or different terms, conditions, or privileges of employment that are not discriminatory on the basis of race, color, disability, religion, sex, national origin, or age.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.113. Imbalance Plan not Required**

This chapter does not require a person subject to this chapter to grant preferential treatment to an individual or a group on the basis of race, color, disability, religion, sex, national origin, or age because of an imbalance between:

- (1) the total number or percentage of persons of that individual's or group's race, color, disability, religion, sex, national origin, or age:
  - (A) employed by an employer;
  - (B) referred or classified for employment by an employment agency or labor organization;
  - (C) admitted to membership or classified by a labor organization; or
  - (D) admitted to or employed in an apprenticeship, on-the-job training, or other training or retraining program; and
- (2) the total number or percentage of persons of that race, color, disability, religion, sex, national origin, or age in:
  - (A) a community, this state, a region, or other area; or
  - (B) the available work force in a community, this state, a region, or other area.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.114. Plan to End Discriminatory School Practices**

A public school official does not commit an unlawful employment practice by adopting or implementing a plan reasonably designed to end discriminatory school practices.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.115. Business Necessity**

An employer does not commit an unlawful employment practice by engaging in a practice that has a discriminatory effect and that would otherwise be prohibited by this chapter if the employer establishes that the practice:

- (1) is not intentionally devised or operated to contravene the prohibitions of this chapter; and
- (2) is justified by business necessity.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.116. Reliance on Commission Interpretation or Opinion**

- (a) A person is not liable for an unlawful employment practice performed in good faith and in conformity with and in reliance on a written interpretation or opinion of the commission.
- (b) In a proceeding alleging an unlawful employment practice, the respondent has the burden of pleading and proving the defense provided by this section.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.117. Employment of Family Member**

Subchapter B does not apply to the employment of an individual by the individual's parent, spouse, or child.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.118. Statewide Hometown Plan**

Subchapter B does not apply to a labor union, firm, association, or individual participating on September 23, 1983, in a statewide hometown plan approved by the United States Department of Labor.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.119. Bona Fide Occupational Qualification**

If disability, religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise, performing any of the following practices on the basis of disability, religion, sex, national origin, or age of an employee, member, or other individual is not an unlawful employment practice:

- (1) an employer hiring and employing an employee;
- (2) an employment agency classifying or referring an individual for employment;
- (3) a labor organization classifying its members or classifying or referring an individual for employment; or
- (4) an employer, labor organization, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program admitting or employing an individual in its program.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.120. Use or Possession of Controlled Substance**

- (a) An employer does not commit an unlawful employment practice by adopting a policy prohibiting the employment of an individual who currently uses or possesses a controlled substance as defined in Schedules I and II of Section 202, Controlled Substances Act, and their subsequent amendments (21 U.S.C. Section 801 et seq.), other than the use or possession of a drug taken under the supervision of a licensed health care professional or any other use or possession authorized by the Controlled Substances Act or any other federal or state law.
- (b) Subsection (a) does not apply to a policy adopted or applied with the intent to discriminate because of race, color, sex, national origin, religion, age, or disability.

Added by Acts 1995, 74th Leg., ch. 76, § 9.04(a), eff. Sept. 1, 1995.

**§ 21.121. Work Force Diversity Programs**

An employer does not commit an unlawful employment practice by developing and implementing personnel policies that incorporate work force diversity programs.

Added by Acts 1995, 74th Leg., ch. 76, § 9.04(a), eff. Sept. 1, 1995.

**§ 21.122. Burden of Proof in Disparate Impact Cases**

- (a) An unlawful employment practice based on disparate impact is established under this chapter only if:
  - (1) a complainant demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, sex, national origin, religion, or disability and the respondent fails to demonstrate that the challenged practice is job-related for the position in question and consistent with business necessity; or
  - (2) the complainant makes the demonstration in accordance with federal law as that law existed June 4, 1989, with respect to the concept of alternative employment practices, and the respondent refuses to adopt such an alternative employment practice.
- (b) To determine the availability of and burden of proof applicable to a disparate impact case involving age discrimination, the court shall apply the judicial interpretation of the Age Discrimination in Employment Act of 1967 and its subsequent amendments (29 U.S.C. Section 621 et seq.).

- (c) To demonstrate that a particular employment practice causes a disparate impact, the complainant must demonstrate that each particular challenged employment practice causes a disparate impact, except that if the complainant demonstrates to the satisfaction of the court that the elements of a respondent's decision-making process are not capable of separation for analysis, that decision-making process may be analyzed as one employment practice.
- (d) If the respondent demonstrates that a specific practice does not cause a disparate impact, the respondent may not be required to demonstrate that the practice is consistent with business necessity.

Added by Acts 1995, 74th Leg., ch. 76, § 9.05(a), eff. Sept. 1, 1995.

#### **§ 21.123. Scope of Defense**

A demonstration that an employment practice is consistent with business necessity may not be used as a defense under this chapter against a complaint of intentional discrimination.

Added by Acts 1995, 74th Leg., ch. 76, § 9.05(a), eff. Sept. 1, 1995.

#### **§ 21.124. Prohibition Against Discriminatory Use of Test Scores**

It is an unlawful employment practice for a respondent, in connection with the selection or referral of applicants for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of employment-related tests on the basis of race, color, sex, national origin, religion, age, or disability.

Added by Acts 1995, 74th Leg., ch. 76, § 9.05(a), eff. Sept. 1, 1995.

#### **§ 21.125. Clarifying Prohibition Against Impermissible Consideration of Race, Color, Sex, National Origin, Religion, Age, or Disability in Employment Practices**

- (a) Except as otherwise provided by this chapter, an unlawful employment practice is established when the complainant demonstrates that race, color, sex, national origin, religion, age, or disability was a motivating factor for an employment practice, even if other factors also motivated the practice, unless race, color, sex, national origin, religion, age, or disability is combined with objective job-related factors to attain diversity in the employer's work force.
- (b) In a complaint in which a complainant proves a violation under Subsection (a) and a respondent demonstrates that the respondent would have taken the same action in the absence of the impermissible motivating factor, the court may grant declaratory relief, injunctive relief except as otherwise provided by this subsection, and attorney's fees and costs demonstrated to be directly attributable only to the pursuit of a complaint under Subsection (a), but may not award damages or issue an order requiring an admission, reinstatement, hiring, promotion, or back pay.

Added by Acts 1995, 74th Leg., ch. 76, § 9.05(a), eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1126, § 1, eff. Sept. 1, 1997.

#### **§ 21.126. Coverage of Previously Exempt Employees of the State or Political Subdivision of the State**

It is an unlawful employment practice for a person elected to public office in this state or a political subdivision of this state to discriminate because of race, color, sex, national origin, religion, age, or disability against an individual who is an employee or applicant for employment to:

- (1) serve on the elected official's personal staff;
- (2) serve the elected official on a policy-making level; or
- (3) serve the elected official as an immediate advisor with respect to the exercise of the constitutional or legal powers of the office.

Added by Acts 1995, 74th Leg., ch. 76, § 9.05(a), eff. Sept. 1, 1995.

#### **§ 21.127. Expansion of Rights to Challenge Discriminatory Seniority Systems**

With respect to a seniority system adopted for an intentionally discriminatory purpose in violation of this chapter, whether that discriminatory purpose is apparent on the face of the seniority provision, an unlawful employment practice occurs when:

- (1) the seniority system is adopted;
- (2) an individual becomes subject to the system; or
- (3) an individual is injured by the application of the system or a provision of the system.

Added by Acts 1995, 74th Leg., ch. 76, § 9.05(a), eff. Sept. 1, 1995.

#### **§ 21.128. Reasonable Accommodation; Good Faith Effort**



- (a) It is an unlawful employment practice for a respondent covered under this chapter to fail or refuse to make a reasonable workplace accommodation to a known physical or mental limitation of an otherwise qualified individual with a disability who is an employee or applicant for employment, unless the respondent demonstrates that the accommodation would impose an undue hardship on the operation of the business of the respondent.
- (b) A showing of undue hardship by the respondent is a defense to a complaint of discrimination made by an otherwise qualified individual with a disability. In considering a complaint based on a disability, the commission shall consider the reasonableness of the cost of any necessary workplace accommodation and the availability of alternatives or other appropriate relief.
- (c) In a complaint in which a discriminatory employment practice involves the provision of a reasonable workplace accommodation under this chapter, damages may not be awarded under Subchapter F if the respondent demonstrates good faith efforts, in consultation with the otherwise qualified individual with a disability who has informed the respondent that accommodation is needed, to identify and make a reasonable workplace accommodation that would provide the individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

Added by Acts 1995, 74th Leg., ch. 76, § 9.05(a), eff. Sept. 1, 1995.

#### **§ 21.129. Court-Ordered Remedies, Affirmative, Action Agreements, and Conciliation Agreements Not Affected**

This chapter does not affect a court-ordered remedy, affirmative action agreement, or conciliation agreement made in accordance with law.

Added by Acts 1995, 74th Leg., ch. 76, § 9.05(a), eff. Sept. 1, 1995.

### **SUBCHAPTER D. LOCAL ENFORCEMENT**

#### **§ 21.151. Enforcement by Ordinance**

A political subdivision may adopt and enforce an order or ordinance that prohibits a practice that is unlawful under this chapter, another state law, or federal law.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.152. Creation of Local Commission**

- (a) A political subdivision or two or more political subdivisions acting jointly may create a local commission to:
  - (1) promote the purposes of this chapter; and
  - (2) secure for all individuals in the jurisdiction of each political subdivision freedom from discrimination because of race, color, disability, religion, sex, national origin, or age.
- (b) The political subdivision creating a local commission may appropriate funds for the expenses of the local commission.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.153. General Powers and Duties of Local Commission**

- (a) A local commission may:
  - (1) employ an executive director and other employees and agents and set their compensation;
  - (2) cooperate or contract with a person, including an agency of the federal government or of another state or municipality; and
  - (3) accept a public grant or private gift, bequest, or other payment.
- (b) A local commission shall prepare at least annually a report and furnish a copy of the report to the Commission on Human Rights.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.154. Investigatory and Conciliatory Powers of Local Commission**

- (a) If the federal government or the Commission on Human Rights refers a complaint alleging a violation of this chapter to a local commission or defers jurisdiction over the subject matter of the complaint to a local commission, the local commission may receive, investigate, conciliate, or rule on the complaint and may file a civil action to carry out the purposes of this chapter.
- (b) The local commission may request, and as necessary, compel by subpoena:

- (1) the attendance of a witness for examination under oath; or
- (2) the production for inspection or copying of a record, document, or other evidence relevant to the investigation of an alleged violation of this chapter.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.155. Referral to Local Commission and Action on Complaints**

- (a) The Commission on Human Rights shall refer a complaint concerning discrimination in employment because of race, color, disability, religion, sex, national origin, or age that is filed with that commission to a local commission with the necessary investigatory and conciliatory powers if:
  - (1) the complaint has been referred to the Commission on Human Rights by the federal government; or
  - (2) jurisdiction over the subject matter of the complaint has been deferred to the Commission on Human Rights by the federal government.
- (b) The local commission shall take appropriate action to remedy the practice alleged as discriminatory in the referred complaint.
- (c) If the local commission does not act on the complaint within 60 days or a longer time that is reasonable, the Commission on Human Rights shall reassume responsibility for the complaint and take appropriate action on the complaint.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.156. Referral by Local Commission to State Commission**

A local commission may refer a matter under its jurisdiction to the Commission on Human Rights.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

### **SUBCHAPTER E. ADMINISTRATIVE REVIEW**

#### **§ 21.201. Filing of Complaint; Form and Content; Service**

- (a) A person claiming to be aggrieved by an unlawful employment practice or the person's agent may file a complaint with the commission.
- (b) The complaint must be in writing and made under oath.
- (c) The complaint must state:
  - (1) that an unlawful employment practice has been committed;
  - (2) the facts on which the complaint is based, including the date, place, and circumstances of the alleged unlawful employment practice; and
  - (3) facts sufficient to enable the commission to identify the respondent.
- (d) The executive director or the executive director's designee shall serve the respondent with a copy of the perfected complaint not later than the 10th day after the date the complaint is filed.
- (e) A complaint may be amended to cure technical defects or omissions, including a failure to verify the complaint or to clarify and amplify an allegation made in the complaint.
- (f) An amendment to a complaint alleging additional facts that constitute unlawful employment practices relating to or arising from the subject matter of the original complaint relates back to the date the complaint was first received by the commission.
- (g) If a perfected complaint is not received by the commission within 180 days of the alleged unlawful employment practice, the commission shall notify the respondent that a complaint has been filed and that the process of perfecting the complaint is in progress.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, § 9.06(a), eff. Sept. 1, 1995.

#### **§ 21.202. Statute of Limitations**

- (a) A complaint under this subchapter must be filed not later than the 180th day after the date the alleged unlawful employment practice occurred.
- (b) The commission shall dismiss an untimely complaint.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1993.

#### **§ 21.203. Alternative Dispute Resolution; Office**

- (a) The use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, fact-finding, minitrials, and arbitration, is encouraged to resolve disputes arising under this chapter. The settlement of a disputed claim under this chapter that results from the use of traditional or alternative means of dispute resolution is binding on the parties to the claim.
- (b) The commission shall establish an office of alternative dispute resolution. At any time after a complaint is received under Section 21.201, at the request of a party or at the direction of the commission the matter may be referred to the office of alternative dispute resolution.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, § 9.06(b), eff. Sept. 1, 1995.

#### **§ 21.204. Investigation by Commission**

- (a) The executive director or a staff member of the commission designated by the executive director shall investigate a complaint and determine if there is reasonable cause to believe that the respondent engaged in an unlawful employment practice as alleged in the complaint.
- (b) If the federal government has referred the complaint to the commission or has deferred jurisdiction over the subject matter of the complaint to the commission, the executive director or the executive director's designee shall promptly investigate the allegations stated in the complaint.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.205. Lack of Reasonable Cause; Dismissal of Complaint**

- (a) If after investigation the executive director or the executive director's designee determines that reasonable cause does not exist to believe that the respondent engaged in an unlawful employment practice as alleged in a complaint, the executive director or the executive director's designee shall issue a written determination, incorporating the finding that the evidence does not support the complaint and dismissing the complaint.
- (b) The executive director or the executive director's designee shall serve a copy of the determination on the complainant, the respondent, and other agencies as required by law.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.206. Determination of Reasonable Cause; Review by Panel**

- (a) If after investigation the executive director or the executive director's designee determines that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice as alleged in a complaint, the executive director or the executive director's designee shall review with a panel of three commissioners the evidence in the record.
- (b) If after the review at least two of the three commissioners determine that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice, the executive director shall:
  - (1) issue a written determination incorporating the executive director's finding that the evidence supports the complaint; and
  - (2) serve a copy of the determination on the complainant, the respondent, and other agencies as required by law.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.207. Resolution by Informal Methods**

- (a) If a determination of reasonable cause is made under Section 21.206, the commission shall endeavor to eliminate the alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion.
- (b) Without the written consent of the complainant and respondent, the commission, its executive director, or its other officers or employees may not disclose to the public information about the efforts in a particular case to resolve an alleged discriminatory practice by conference, conciliation, or persuasion, regardless of whether there is a determination of reasonable cause.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.208. Notice of Dismissal or Unresolved Complaint**

If the commission dismisses a complaint filed under Section 21.201 or does not resolve the complaint before the 181st day after the date the complaint was filed, the commission shall inform the complainant of the dismissal or failure to resolve the complaint in writing by certified mail.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.210. Temporary Injunctive Relief**

- (a) If the commission concludes from a preliminary investigation of an unlawful employment practice alleged in a complaint that prompt judicial action is necessary to carry out the purpose of this chapter, the commission shall file a petition seeking appropriate temporary relief against the respondent pending final determination of a proceeding under this chapter.
- (b) The petition shall be filed in a district court in a county in which:
  - (1) the alleged unlawful employment practice that is the subject of the complaint occurred; or
  - (2) the respondent resides.
- (c) A court may not issue temporary injunctive relief unless the commission shows:
  - (1) a substantial likelihood of success on the merits; and
  - (2) irreparable harm to the complainant in the absence of the preliminary relief pending final determination on the merits.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.211. Election of Remedies**

A person who has initiated an action in a court of competent jurisdiction or who has an action pending before an administrative agency under other law or an order or ordinance of a political subdivision of this state based on an act that would be an unlawful employment practice under this chapter may not file a complaint under this subchapter for the same grievance.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**SUBCHAPTER F. JUDICIAL ENFORCEMENT**

**§ 21.251. Civil Action by Commission**

- (a) The commission may bring a civil action against a respondent if:
  - (1) the commission determines that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice;
  - (2) the commission's efforts to resolve the discriminatory practice to the satisfaction of the complainant and respondent through conciliation have been unsuccessful; and
  - (3) a majority of the commissioners determines that the civil action may achieve the purposes of this chapter.
- (b) The complainant may intervene in a civil action brought by the commission.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.252. Notice of Complainant's Right to File Civil Action**

- (a) A complainant who receives notice under Section 21.208 that the complaint is not dismissed or resolved is entitled to request from the commission a written notice of the complainant's right to file a civil action.
- (b) The complainant must request the notice in writing.
- (c) The executive director may issue the notice.

- (d) Failure to issue the notice of a complainant's right to file a civil action does not affect the complainant's right under this subchapter to bring a civil action against the respondent.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.253. Expedited Notice of Complainant's Right to File Civil Action**

- (a) On receipt of a written request by a complainant, the commission shall issue before the 181st day after the date the complaint was filed a notice of the right to file a civil action if:
  - (1) the complainant alleges an unlawful employment practice based on the complainant's status as an individual with a life-threatening illness, as confirmed in writing by a physician licensed to practice medicine in this state; or
  - (2) the executive director certifies that administrative processing of the complaint cannot be completed before the 181st day after the date the complaint was filed.
- (b) The commission shall issue the expedited notice by certified mail not later than the fifth business day after the date the commission receives the written request.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.254. Civil Action by Complainant**

Within 60 days after the date a notice of the right to file a civil action is received, the complainant may bring a civil action against the respondent.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.255. Commission's Intervention in Civil Action by Complainant**

After receipt of a timely application, a court may permit the commission to intervene in a civil action filed under Section 21.254 if:

- (1) the commission certifies that the case is of general public importance; and
- (2) before commencement of the action the commission issued a determination of reasonable cause to believe that this chapter was violated.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.256. Statute of Limitations**

A civil action may not be brought under this subchapter later than the second anniversary of the date the complaint relating to the action is filed.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, § 9.07(a), eff. Sept. 1, 1995.

**§ 21.257. Assignment to Early Hearing**

The court shall set an action brought under this subchapter for hearing at the earliest practicable date to expedite the action.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.258. Injunction; Equitable Relief**

- (a) On finding that a respondent engaged in an unlawful employment practice as alleged in a complaint, a court may:
  - (1) prohibit by injunction the respondent from engaging in an unlawful employment practice; and
  - (2) order additional equitable relief as may be appropriate.
- (b) Additional equitable relief may include:
  - (1) hiring or reinstating with or without back pay;
  - (2) upgrading an employee with or without pay;
  - (3) admitting to or restoring union membership;

- (4) admitting to or participating in a guidance program, apprenticeship, or on-the-job training or other training or retraining program, using objective job-related criteria in admitting an individual to a program;
- (5) reporting on the manner of compliance with the terms of a final order issued under this chapter; and
- (6) paying court costs.
- (c) Liability under a back pay award may not accrue for a date more than two years before the date a complaint is filed with the commission. Interim earnings, workers' compensation benefits, and unemployment compensation benefits received operate to reduce the back pay otherwise allowable.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

**§ 21.2585. Compensatory and Punitive Damages**

- (a) On finding that a respondent engaged in an unlawful intentional employment practice as alleged in a complaint, a court may, as provided by this section, award:
  - (1) compensatory damages; and
  - (2) punitive damages.
- (b) A complainant may recover punitive damages against a respondent, other than a respondent that is a governmental entity, if the complainant demonstrates that the respondent engaged in a discriminatory practice with malice or with reckless indifference to the state-protected rights of an aggrieved individual.
- (c) Compensatory damages awarded under this section may not include:
  - (1) back pay;
  - (2) interest on back pay; or
  - (3) other relief authorized under Section 21.258(b).
- (d) The sum of the amount of compensatory damages awarded under this section for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses and the amount of punitive damages awarded under this section may not exceed, for each complainant:
  - (1) \$50,000 in the case of a respondent that has fewer than 101 employees;
  - (2) \$100,000 in the case of a respondent that has more than 100 and fewer than 201 employees;
  - (3) \$200,000 in the case of a respondent that has more than 200 and fewer than 501 employees; and
  - (4) \$300,000 in the case of a respondent that has more than 500 employees.
- (e) For the purposes of Subsection (d), in determining the number of employees of a respondent, the requisite number of employees must be employed by the respondent for each of 20 or more calendar weeks in the current or preceding calendar year.

Added by Acts 1995, 74th Leg., ch. 76, § 9.07(b), eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 872, § 13, eff. Sept. 1, 1999.

**§ 21.259. Attorney's Fees; Costs**

- (a) In a proceeding under this chapter, a court may allow the prevailing party, other than the commission, a reasonable attorney's fee as part of the costs.
- (b) The state, a state agency, or a political subdivision is liable for costs, including attorney's fees, to the same extent as a private person.
- (c) In awarding costs and attorney's fees in an action or a proceeding under this chapter, the court, in its discretion, may include reasonable expert fees.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, § 9.07(c), eff. Sept. 1, 1995.

#### **§ 21.260. Relief for Disabled Employee or Applicant**

If the affected employee or applicant for employment has a disability, a court shall consider the undue hardship defense, including the reasonableness of the cost of necessary workplace accommodation and the availability of alternatives or other appropriate relief.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.261. Compelled Compliance**

If an employer, employment agency, or labor organization fails to comply with a court order issued under this subchapter, a party to the action or the commission, on the written request of a person aggrieved by the failure, may commence proceedings to compel compliance with the order.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.262. Trial De Novo**

(a) A judicial proceeding under this chapter is by trial de novo.

(b) A commission finding, recommendation, determination, or other action is not binding on a court.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

### **SUBCHAPTER G. RECORDS**

#### **§ 21.301. Recordkeeping; Reports**

A person under investigation in connection with a charge filed under this chapter and who is subject to this chapter shall:

- (1) make and keep records relevant to the determination of whether unlawful employment practices have been or are being committed;
- (2) preserve the records for the period required by commission rule or court order; and
- (3) make reports from the records as prescribed by commission rule or court order as reasonable, necessary, or appropriate for the enforcement of this chapter or a rule or order issued under this chapter.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.302. Records; Training Program**

The commission by rule shall require that a person subject to this chapter who controls an apprenticeship, on-the-job training, or other training or retraining program:

- (1) keep all records reasonably necessary to carry out the purposes of this chapter, including a list of applicants for participation in the program and a record of the chronological order in which applications for the program were received; and
- (2) furnish to the commission on request a detailed description of the manner in which individuals are selected to participate in the program.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.303. Conformity to Federal Law**

A report or record required by the commission under this subchapter must conform to a similar record or report required under 42 U.S.C. Section 2000e-8(c).

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.304. Confidentiality of Records**

An officer or employee of the commission may not disclose to the public information obtained by the commission under Section 21.204 except as necessary to the conduct of a proceeding under this chapter.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.305. Access to Commission Records**

(a) The commission shall adopt rules allowing a party to a complaint filed under Section 21.201 reasonable access to commission records relating to the complaint.

- (b) Unless the complaint is resolved through a voluntary settlement or conciliation, on the written request of a party the executive director shall allow the party access to the commission records:
  - (1) after the final action of the commission; or
  - 2) if a civil action relating to the complaint is filed in federal court alleging a violation of federal law.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

#### **§ 21.306. Subpoena of Record or Report**

- (a) If a person fails to permit access, examination, photographing, or copying or fails to make, keep, or preserve a record or make a report in accordance with this subchapter, the commission may issue a subpoena requiring compliance.
- (b) On a failure to comply with a subpoena of the commission, the commission shall apply for an order directing compliance to the district court of the county in which the person is found, resides, or transacts business.

Acts 1993, 73rd Leg., ch. 269, § 1, eff. Sept. 1, 1993.

### **SUBCHAPTER H. DISCRIMINATORY USE OF GENETIC INFORMATION**

#### **§ 21.401. Definitions**

In this subchapter:

- (1) "DNA" means deoxyribonucleic acid.
- (2) "Family health history" means a history taken by a physician or genetic professional to ascertain genetic or medical information about an individual's family.
- (3) "Genetic characteristic" means a scientifically or medically identifiable genetic or chromosomal variation, composition, or alteration that:
  - (A) is scientifically or medically believed to:
    - (i) predispose an individual to a disease, disorder, or syndrome; or
    - (ii) be associated with a statistically significant increased risk of development of a disease, disorder, or syndrome; and
  - (B) may or may not be associated with any symptom of an ongoing disease, disorder, or syndrome affecting an individual on the date that genetic information is obtained regarding that individual.
- (4) "Genetic information" means information that is:
  - (A) obtained from or based on a scientific or medical determination of the presence or absence in an individual of a genetic characteristic; or
  - (B) derived from the results of a genetic test performed on, or a family health history obtained from, that individual.
- (5) "Genetic test" means a presymptomatic laboratory test of an individual's genes, gene products, or chromosomes to identify by analysis of the individual's DNA, RNA, proteins, or chromosomes genetic variations, compositions, or alterations that are associated with a statistically increased risk to develop a clinically recognized disease, disorder, or syndrome or to be a carrier of such a disease, disorder, or syndrome. The term does not include a blood test, cholesterol test, urine test, or other physical test used for a purpose other than determining a genetic or chromosomal variation, composition, or alteration in a specific individual.
- (6) "RNA" means ribonucleic acid.

Added by Acts 1997, 75th Leg., ch. 1215, § 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1215, § 1, eff. Sept. 1, 2001.

#### **§ 21.402. Discriminatory Use of Genetic Information Prohibited**



- (a) An employer commits an unlawful employment practice if the employer fails or refuses to hire, discharges, or otherwise discriminates against an individual with respect to compensation or the terms, conditions, or privileges of employment:
  - (1) on the basis of genetic information concerning the individual; or
  - (2) because of the refusal of the individual to submit to a genetic test.
- (b) A labor organization commits an unlawful employment practice if the labor organization excludes or expels from membership or otherwise discriminates against an individual:
  - (1) on the basis of genetic information concerning the individual; or
  - (2) because of the refusal of the individual to submit to a genetic test.
- (c) An employment agency commits an unlawful employment practice if the employment agency classifies or refers for employment, fails or refuses to refer for employment, or otherwise discriminates against an individual:
  - (1) on the basis of genetic information concerning the individual; or
  - (2) because of the refusal of the individual to submit to a genetic test.
- (d) An employer, labor organization, or employment agency commits an unlawful employment practice if the employer, labor organization, or employment agency limits, segregates, or classifies an employee, member, or applicant for employment or membership in a way that would deprive or tend to deprive the employee, member, or applicant of employment opportunities or otherwise adversely affect the status of the employee, member, or applicant:
  - (1) on the basis of genetic information concerning the employee, member, or applicant; or
  - (2) because of the refusal of the employee, member, or applicant to submit to a genetic test.

Added by Acts 1997, 75th Leg., ch. 1215, § 1, eff. Sept. 1, 1997.

**§ 21.403. Information Confidential; Exceptions**

- (a) Except as provided by Subsections (c) and (d), genetic information is confidential and privileged regardless of the source of the information. A person who holds that information may not disclose or be compelled to disclose, by subpoena or otherwise, genetic information about an individual unless the disclosure is specifically authorized by the individual as provided by Subsection (b). This subsection applies to a redisclosure of genetic information by a secondary recipient of the information after disclosure of the information by an initial recipient.
- (b) An individual or the legal representative of an individual may authorize the disclosure of genetic information relating to that individual through a written authorization that includes:
  - (1) a description of the information to be disclosed;
  - (2) the name of the person to whom the disclosure is made; and
  - (3) the purpose for the disclosure.
- (c) Subject to Subchapter G, Chapter 411, Government Code, genetic information relating to an individual may be disclosed without the authorization required under Subsection (b) if the disclosure is:
  - (1) authorized under a state or federal criminal law relating to:
    - (A) the identification of individuals; or
    - (B) a criminal or juvenile proceeding, an inquest, or a child fatality review by a multidisciplinary child-abuse team;
  - (2) required under a specific order of a state or federal court;
  - (3) authorized under a state or federal law to establish paternity;

- (4) made to furnish genetic information relating to a decedent to the blood relatives of the decedent for the purpose of medical diagnosis; or
- (5) made to identify a decedent.
- (d) In addition to the exceptions under Subsection (c), genetic information relating to an individual may be disclosed without the authorization required under Subsection (b) if:
  - (1) the disclosure is for information from a research study in which the procedure for obtaining informed written consent and use of the information is governed by national standards for protecting participants involved in research projects, including guidelines issued under 21 C.F.R. Part 50 and 45 C.F.R. Part 46;
  - (2) the information does not identify a particular individual; and
  - (3) the information is provided to the Texas Department of Health to comply with Chapter 87, Health and Safety Code.

Added by Acts 1997, 75th Leg., ch. 1215, § 1, eff. Sept. 1, 1997.

#### **§ 21.404. Right to Know Test Results**

An individual who submits to a genetic test has the right to know the results of that test. On the written request of the individual, the entity that performed the test shall disclose the test results to the individual or to a physician designated by the individual.

Added by Acts 1997, 75th Leg., ch. 1215, § 1, eff. Sept. 1, 1997.

#### **§ 21.405. Retention of Sample**

A sample of genetic material taken for a genetic test from an individual shall be destroyed promptly after the purpose for which the sample was obtained is accomplished unless:

- (1) the sample is retained under a court order;
- (2) the individual tested authorizes retention of the sample for purposes of medical treatment or scientific research;
- (3) for a sample obtained for research that is cleared by an institutional review board, the sample is retained under the requirements that the institutional review board imposes on a specific research project or as authorized by the research participant with institutional review board approval under federal law; or
- (4) the sample was obtained for a screening test established by the Texas Department of Health and performed by that department or by a laboratory approved by that department under Section 33.011, Health and Safety Code.

Added by Acts 1997, 75th Leg., ch. 1215, § 1, eff. Sept. 1, 1997.

### **SUBCHAPTER I. PERSONNEL POLICIES AND PROCEDURES**

#### **§ 21.451. Definition**

In this subchapter, "state agency" does not include a public junior college as defined by Section 61.003, Education Code.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

#### **§ 21.452. Development and Implementation of Personnel Policies and Procedures**

Each state agency shall develop and implement personnel policies and procedures that comply with this chapter, including personnel selection procedures that incorporate a workforce diversity program.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

#### **§ 21.453. Review**

- (a) The commission shall review the personnel policies and procedures of each state agency on a six-year cycle to determine whether the policies and procedures comply with this chapter.
- (b) The commission by rule shall establish a system to stagger the reviews of state agency personnel policies and procedures required under this section.
- (c) If the commission determines that the personnel policies and procedures of a state agency do not comply with this chapter, the commission shall recommend appropriate revisions to the personnel policies and procedures.

- (d) The state agency shall take these recommendations into consideration and determine whether to revise the personnel policies and procedures.
- (e) The review of a state agency's personnel policies and procedures shall be completed within one year.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

#### **§ 21.454. Compliance Report**

Not later than 60 days after the commission completes the review of a state agency's personnel policies and procedures as required by Section 21.453 and provides its review and any recommendations to the agency, the agency shall submit to the commission, the governor, the legislature, and the Legislative Budget Board a report detailing:

- (1) whether the agency implemented the recommendations of the commission; and
- (2) if the agency did not implement all of the commission's recommendations, the reasons for rejecting those recommendations.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

#### **§ 21.455. Reimbursement; Audit**

- (a) A state agency shall reimburse the commission through interagency contract for the reasonable and necessary expenses incurred by the commission in conducting a review under Section 21.453. The actual expenses incurred by the commission shall be determined by the state auditor's office.
- (b) The commission shall maintain a record of the time expended and the actual costs and travel expenses incurred by the commission in conducting a review under Section 21.453.
- (c) The amount of reimbursement paid by a state agency under Subsection (a) and the record maintained by the commission under Subsection (b) is subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

#### **§ 21.456. Failure to Comply With Subchapter; Administrative Penalty**

- (a) If the commission determines that a state agency has failed to comply with this subchapter, the commission shall certify that determination to the comptroller.
- (b) On receipt of a certification by the commission under Subsection (a), the comptroller shall notify the state agency that is the subject of the certification that funds appropriated to the agency are subject to a reduction in the amount of \$5,000 as provided by this section unless, not later than the 30th day after the date the agency receives notice from the comptroller under this subsection, the agency submits to the comptroller proof that the agency has complied with this subchapter. If the agency fails to submit to the comptroller the proof required by this subsection, the comptroller shall:

(1) if the state agency failed to develop or implement personnel policies and procedures as required by Section 21.452:

- (A) reduce the funds appropriated to the agency for the fiscal year in which the agency fails to comply with this subchapter by the amount of \$5,000; or
- (B) if all funds appropriated to the agency for the fiscal year in which the agency fails to comply with this subchapter have been distributed to the agency, reduce the funds appropriated to the agency during the next fiscal year by the amount of \$5,000; or

(2) if the state agency failed to reimburse the commission as required by Section 21.455:

- (A) transfer the amount of the reimbursement from the agency to the commission's appropriations and reduce the funds appropriated to the agency for the fiscal year in which the agency fails to comply with this subchapter by an amount that equals the difference between the amount of the reimbursement and \$5,000; or
- (B) if all funds appropriated to the agency for the fiscal year in which the agency fails to comply with this subchapter have been distributed to the agency:

- (i) during the next fiscal year, transfer the amount of the reimbursement from the funds appropriated to the agency for that fiscal year to the commission's appropriations; and
- (ii) reduce the funds appropriated to the agency during the next fiscal year by an amount that equals the difference between the amount of the reimbursement and \$5,000.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

## **SUBCHAPTER J. HIRING PRACTICES**

### **§ 21.501. Workforce Analysis**

Each state fiscal biennium, each state agency shall analyze its current workforce and compare the number of African Americans, Hispanic Americans, and females employed by the agency in each job category to the available African Americans, Hispanic Americans, and females in the statewide civilian workforce to determine the percentage of exclusion or underutilization by each job category.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

### **§ 21.502. Recruitment Plan**

Based upon a workforce availability analysis under Section 21.501 that demonstrates the exclusion or underutilization of African Americans, Hispanic Americans, and females, or court-ordered remedies, or supervised conciliations or settlement agreements, each state agency, other than a public junior college as defined by Section 61.003, Education Code, shall develop and implement a plan to recruit qualified African Americans, Hispanic Americans, and females. The plan must comply with this chapter. The commission shall monitor state agencies to determine compliance with this section.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

### **§ 21.503. Effect on Remedies Under Other Laws**

This subchapter does not affect a remedy, agreement, settlement, or affirmative action plan that has been ordered or approved by a court or that has been adopted in accordance with other law.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

### **§ 21.504. Annual Report**

Not later than November 1 of each calendar year, each state agency shall report to the commission the total number of African Americans, Hispanic Americans, females, and other persons hired for each job category by the agency during the preceding state fiscal year. The commission shall compile this information and submit a report based on the information to the governor and the Legislative Budget Board not later than January 1 of the subsequent calendar year.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

## **SUBCHAPTER K. EQUAL EMPLOYMENT OPPORTUNITY REPORTS**

### **§ 21.551. Definition**

In this subchapter, "racial and ethnic group" means Caucasian American, African American, or Hispanic American.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

### **§ 21.552. Equal Employment Opportunity Report Required**

- (a) Not later than the seventh day of each calendar year, excluding legal holidays and weekends, each state agency shall report equal employment opportunity information for the preceding calendar year to the commission as required by this subchapter. The report must be made in the form prescribed by the commission and include information compiled on a monthly basis.
- (b) Each year the commission shall compile equal employment opportunity information reported to the commission by a state agency. The information must include:
  - (1) the total number of employees of the agency and the total number of new employees hired since the date of the last report made by the agency;
  - (2) the total number of employees of the agency listed by racial and ethnic group and the percentage of the total number of agency employees for each racial and ethnic group, including a distinction for those categories

between the total number of employees and the total number of employees hired since the date of the last report made by the agency;

- (3) the total number of male employees and the total number of female employees of the agency, including a distinction for those categories between the total number of employees and the total number of employees hired since the date of the last report made by the agency;
- (4) the total number of male employees and the total number of female employees of the agency for each racial and ethnic group, including a distinction for those categories between the total number of employees and the total number of employees hired since the date of the last report made by the agency;
- (5) the total number of disabled employees of the agency, including a distinction for that category between the total number of employees and the total number of employees hired since the date of the last report made by the agency; and
- (6) the total number of employees of the agency listed by job classification and the total number of employees for each sex, racial and ethnic group, and disability listed by job classification, including a distinction for those categories between the total number of employees and the total number of employees hired since the date of the last report made by the agency.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

**§ 21.553. Cooperation With Comptroller and Uniform Statewide Accounting System; Report to Legislature**

- (a) The commission shall compile the information reported to the commission under this subchapter with the assistance of the comptroller and the uniform statewide accounting system.
- (b) The commission shall conduct an analysis of the information reported to the commission under this subchapter and report the results of that analysis to the legislature not later than the fifth day of each regular session of the legislature. The report required under this subsection must be written in plain language.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

**§ 21.554. Form**

Not later than December 15 of each year, the commission shall notify each state agency of the form to be used to make a report under this subchapter for the following year.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

**§ 21.555. Failure to File Required Report; Administrative Penalty**

- (a) If the commission determines that a state agency has failed to file a report required under this subchapter, the commission shall certify that determination to the comptroller.
- (b) On receipt of a certification by the commission under Subsection (a), the comptroller shall notify the state agency that is the subject of the certification that funds appropriated to the agency are subject to a reduction in the amount of \$2,000 as provided by this section unless, not later than the 30th day after the date the agency receives notice from the comptroller under this subsection, the agency submits to the comptroller proof that the agency filed the report required under this subchapter. If the agency fails to submit to the comptroller the proof required by this subsection, the comptroller shall:
  - (1) reduce the funds appropriated to the agency for the fiscal year in which the agency fails to file the report required under this subchapter by the amount of \$2,000; or
  - (2) if all funds appropriated to the agency for the fiscal year in which the agency fails to file the report required under this subchapter have been distributed to the agency, reduce the funds appropriated to the agency during the next fiscal year by the amount of \$2,000.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.

**§ 21.556. Required Compliance Training for State Agencies**

- (a) A state agency that receives three or more complaints of employment discrimination in a fiscal year, other than complaints determined to be without merit, shall provide a comprehensive equal employment opportunity training program to appropriate supervisory and managerial employees.

- (b) The training may be provided by the commission or by another entity or person approved by the commission, including a state agency.
- (c) The state agency shall provide documentation of the training to the commission if the training is not conducted by the commission. The documentation shall include the dates the training was provided, the names of the persons attending the training, an agenda for the training program, and the name of the entity or person providing the training.
- (d) The commission by rule shall adopt minimum standards for a training program described by Subsection (a) and shall approve an entity or person to provide a training program if the program complies with the minimum standards adopted by the commission under this subsection.
- (e) An agency required to participate in a program under this section shall pay the cost of attending the program or shall reimburse the commission or state agency providing the program through interagency contract. The cost of providing the program shall be determined and approved by the commission or state agency in cooperation with the state auditor's office.

Added by Acts 1999, 76th Leg., ch. 872, § 15, eff. Sept. 1, 1999.



# 1796 Constituion of the state of Tennessee

We, the people of the territory of the United States, south of the river Ohio, having the right of admission into the general government as a member state thereof, consistent with the Constitution of the United States, and the act of cession of the state of North Carolina, recognizing the ordinance for the government of the territory of the United States, north west of the river Ohio, do ordain and establish the following Constitution or form of government; and do mutually agree with each other to form ourselves into a free and independent state, by the name of "The State of Tennessee."

## ARTICLE I

I. The legislative authority of this state shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives, both dependent on the people.

II. Within three years after the first meeting of the general assembly, and within every subsequent term of seven years, an enumeration of the taxable inhabitants shall be made, in such manner as shall be directed by law; the number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the several counties according to the number of taxable inhabitants in each; and shall never be less than twenty-two, nor greater than twenty-six, until the number of taxable inhabitants shall be forty thousand; and after that event, at such ratio that the whole number of representatives shall never exceed forty.

III. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature, and apportioned among the districts, formed as herein after directed, according to the number of taxable inhabitants in each; and shall never be less than one third, nor more than one half of the number of representatives.

IV. The senators shall be chosen by districts, to be formed by the legislature, each district containing such a number of taxable inhabitants as shall be entitled to elect not more than three senators. When a district shall be composed of two or more counties, they shall be adjoining, and no county shall be divided in forming a district.



V. The first election for senators and representatives shall commence on the second Thursday of March next, and shall continue for that and the succeeding day; and the next election shall commence on the first Thursday of August, one thousand seven hundred and ninety-seven, and shall continue on that and the succeeding day; and forever after, elections shall be held once in two years, commencing on the first Thursday in August, and terminating the succeeding day.

VI. The first session of the general assembly shall commence on the last Monday of March next; the second on the third Monday of September, one thousand seven hundred and ninety-seven. And forever after, the general assembly shall meet on the third Monday of September next ensuing the then election, and at no other period, unless as provided for by this constitution.

VII. That no person shall be eligible to a seat in the general assembly, unless he shall have resided three years in the state, and one year in the county, immediately preceding the election, and shall possess in his own right, in the county which he represents, not less than two hundred acres of land, and shall have attained to the age of twenty-one years.

VIII. The senate and house of representatives, when assembled, shall each choose a speaker and its other officers, be judges of the qualifications and election of its members, and sit upon its own adjournments from day to day. Two thirds of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized by law to compel the attendance of absent members.

IX. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member, but not a second time for the same offence; and shall have all other powers necessary for the legislature of a free state.

X. Senators and representatives shall in all cases, except treason, felony or a breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

XI. Each house may punish, by imprisonment, during their session, any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behaviour in their presence.

XII. When vacancies happen in either house, the governor for the time being, shall issue writs of election to fill such vacancies.

XIII. Neither house shall, during their session, adjourn without consent of the other, for more than three days, nor to any other place than that in which the two houses shall be sitting.

XIV. Bills may originate in either house, but may be amended, altered or rejected by the other.

XV. Every bill shall be read three times, on three different days, in each house, and be signed by the respective speakers, before it becomes a law.

XVI. After a bill has been rejected, no bill containing the same substance shall be passed into a law during the same session.

XVII. The style of the laws of this state shall be, "Be it enacted by the General Assembly of the state of Tennessee."

XVIII. Each house shall keep a journal of its proceedings, and publish them, except such parts as the welfare of the state may require to be kept secret. And the yeas and nays of the members, on any question, shall, at the request of any two of them, be entered on the journals.

XIX. The doors of each house, and committees of the whole, shall be kept open, unless when the business shall be such as ought to be kept secret.

XX. The legislature of this state shall not allow the following officers of government greater annual salaries than as follows, until the year one thousand eight hundred and four, to wit:

The governor not more than seven hundred and fifty dollars.

The judges of the superior courts, not more than six hundred dollars each.

The secretary not more than four hundred dollars.

The treasurer or treasurers, not more than four per cent for receiving and paying out all monies.

The attorney or attorneys for the state shall receive a compensation for their services, not exceeding fifty dollars for each superior court which he or they shall attend.

No member of the legislature shall receive more than one dollar and seventy five cents per day, nor more for every twenty-five miles he shall travel in going to and from the general assembly.

XXI. No money shall be drawn from the treasury, but in consequence of appropriations made by law.

XXII. No person who heretofore hath been, or hereafter may be a collector or holder of public moneys, shall have a seat in either house of the general assembly until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable or liable.

XXIII. No judge of any court of law or equity, secretary of state, attorney general, register, clerk of any court of record, or person holding any office under the authority of the United States, shall have a seat in the general assembly; nor shall any person in this state hold more than one lucrative office at one and the same time; provided that no appointment in the militia or to the office of a justice of the peace, shall be considered a lucrative office.

XXIV. No member of the general assembly shall be eligible to any office or place of trust, except to the office of a justice of the peace, or trustee of any literary institution, where the power of appointment to such office or place of trust, is vested in their own body.

XXV. Any member of either house of the general assembly shall have liberty to dissent from, and protest against any act or resolve which he may think injurious to the public or any individual, and have the reasons of his dissent entered on the journals.

XXVI. All lands liable to taxation in this state, held by deed, grant or entry, shall be taxed equal and uniform, in such manner that no one hundred acres shall be taxed higher than another, except town lots, which shall not be taxed higher than two hundred acres of land each; no free man shall be taxed higher than one hundred acres, and no slave higher than two hundred acres, on each poll.

XXVII. No article manufactured of the produce of this state, shall be taxed otherwise than to pay inspection fees.

## ARTICLE II

I. The supreme executive power of this state, shall be vested in a Governor.

II. The governor shall be chosen by the electors of the members of the general assembly, at the times and places where they shall respectively vote for the members thereof. The returns for every election for governor shall be sealed up, and transmitted to the seat of government, by the returning officers, directed to the speaker of the senate, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes, shall be governor; but if two or more shall be equal, and highest in votes, one of them shall be chosen governor by joint ballot of both houses of the general assembly. Contested elections for governor, shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

III. He shall be at least twenty-five years of age, and possess a free-hold estate of five hundred acres of land, and have been a citizen or inhabitant of this state four years next before his election, unless he shall have been absent on the public business of the United States or of this state.

IV. The first governor shall hold his office until the fourth Tuesday of September, one thousand seven hundred and ninety-seven, and until another governor shall be elected and qualified to office; and forever after, the governor shall hold his office for the term of two years, and until another governor shall be elected and qualified; but shall not be eligible more than six years in any term of eight.

V. He shall be commander-in-chief of the army and navy of this state, and of the militia, except when they shall be called into the service of the United States.

VI. He shall have power to grant reprieves and pardons, after conviction, except in cases of impeachment.

VII. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the period for which he shall have been elected.

VIII. He may require information in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

IX. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to them when assembled, the purpose for which they shall have been convened.

X. He shall take care that the laws shall be faithfully executed.

XI. He shall from time to time give to the general assembly, information of the state of the government and recommend to their consideration such measures as he shall judge expedient.

XII. In case of his death, or resignation, or removal from office, the speaker of the senate shall exercise the office of governor until another governor shall be duly qualified.

XIII. No member of congress, or person holding any office under the United States, or this state, shall execute the office of governor.

XIV. When any officer, the right of whose appointment, is by this constitution vested in the general assembly, shall, during the recess, die, or his office by other means become vacant, the governor shall have power to fill up such vacancy by granting a temporary commission, which shall expire at the end of the next session of the legislature.

XV. There shall be a seal of this state, which shall be kept by the governor, and used by him officially, and shall be called the great seal of the State of Tennessee.

XVI. All grants and commissions shall be in the name and by the authority of the State of Tennessee, be sealed with the state seal, and signed by the governor.

XVII. A secretary of this state shall be appointed and commissioned during the term of four years. He shall keep a fair register of all the official acts and proceedings of the governor; and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before the general assembly, and shall perform such other duties as shall be enjoined him by law.

### ARTICLE III

I. Every freeman of the age of twenty-one years and upwards, possessing a freehold in the county wherein he may vote, and being an inhabitant of this state, and every freeman being an inhabitant of any one county in the state six months immediately preceding the day of election, shall be entitled to vote for members of the general assembly, for the county in which he shall reside.

II. Electors shall in all cases, except treason, felony or a breach of the

peace, be privileged from arrest during their attendance at elections, and in going to and returning from them.

III. All elections shall be by ballot.

#### ARTICLE IV

I. The house of representatives shall have the sole power of impeachment.

II. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation.

III. No person shall be convicted without the concurrence of two thirds of the whole house.

IV. The governor and all civil officers under the state, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust or profit under this state. The party shall, nevertheless, in all cases, be liable to indictment, trial, judgment and punishment, according to law.

#### ARTICLE V

I. The judicial power of the state shall be vested in such superior and inferior courts of law and equity, as the legislature shall, from time to time, direct and establish. ✓

II. The general assembly shall by joint ballot of both houses appoint judges of the several courts of law and equity, also an attorney or attorneys for the state, who shall hold their respective offices during their good behavior.

III. The judges of the superior court, shall, at stated times, receive a compensation for their services, to be ascertained by law; but shall not be allowed any fees or perquisites of office, nor shall they hold any other office of trust or profit under this state, or the United States.

IV. The judges of the superior courts, shall be justices of oyer and terminer and general jail delivery, throughout the state.

V. The judges of the superior and inferior courts shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

VI. The judges of the superior courts shall have power, in all civil cases, to issue writs of certiorari, to remove any cause, or a transcript thereof, from any inferior court of record into the superior, on sufficient cause, supported by oath or affirmation.

VII. The judges or justices of the inferior courts of law, shall have power, in all civil cases, to issue writs of certiorari, to remove any cause, or a transcript thereof, from any inferior jurisdiction into their court, on sufficient cause, supported by oath or affirmation.

VIII. No judge shall sit on the trial of any cause where the parties shall be connected with him, by affinity or consanguinity, except by consent of parties. In case all the judges of the superior court shall be interested in the event of any cause or related to all or either of the parties, the governor of the state shall in such case specially commission three men, of law knowledge, for the determination thereof.

IX. All writs and other process, shall run, in the name of the State of Tennessee; and bear teste, and be signed by the respective clerks. Indictments shall conclude, against the peace and dignity of the state.

X. Each court shall appoint its own clerk, who may hold his office during good behavior.

XI. No fine shall be laid on any citizen of this state, that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine ought to be more than fifty dollars.

XII. There shall be justices of the peace appointed for each county, not exceeding two for each captain's company, except for the company which includes the county town, which shall not exceed three, who shall hold their offices during good behavior.

## ARTICLE VI

I. There shall be appointed in each county, by the county court, one sheriff, one coroner, one trustee, and a sufficient number of constables, who shall hold their offices for two years. They shall also have power to appoint one register and ranger for the county, who shall hold their offices during good behaviour. The sheriff and coroner shall be commissioned by the governor.

II. There shall be a treasurer or treasurers appointed for the state, who

shall hold his or their offices for two years.

III. The appointment of all officers not otherwise directed by this constitution, shall be vested in the legislature.

## ARTICLE VII

I. Captains, subalterns and non-commissioned officers shall be elected by those citizens in their respective districts who are subject to military duty.

II. All field officers of the militia shall be elected by those citizens in their respective counties who are subject to military duty.

III. Brigadiers general shall be elected by the field officers of their respective brigades.

IV. Majors general shall be elected by the brigadiers and field officers of the respective divisions.

V. The governor shall appoint the adjutant general; the majors general shall appoint their aids; the brigadiers general shall appoint their brigade majors, and the commanding officers of regiments, their adjutants and quarter-masters.

VI. The captains and the subalterns of the cavalry shall be appointed by the troops enrolled in their respective companies, and the field officers of the districts shall be appointed by the said captains and subalterns; provided, that whenever any new county is laid off, the field officers of the said cavalry shall appoint the captain and other officers therein, pro tempore, until the company is filled up and completed, at which time the election of the captain and subalterns shall take place as aforesaid.

VII. The legislature shall pass laws, exempting citizens belonging to any sect or denomination of religion, the tenets of which are known to be opposed to the bearing of arms, from attending private and general musters.

## ARTICLE VIII

I. Whereas ministers of the gospel are, by their profession, dedicated to God and the care of souls, and ought not to be diverted from the great duties of their functions, therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to a seat in either house of the legislature.



II. No person who denies the being of God or a future state of rewards and punishments, shall hold any office in the civil department of this state.

## ARTICLE IX

I. That every person, who shall be chosen or appointed to any office of trust or profit, shall, before entering on the execution thereof, take an oath to support the constitution of this state, and also an oath of office.

II. That each member of the senate and house of representatives, shall, before they proceed to business, take an oath or affirmation to support the constitution of this state, and also the following oath:

"I, A B, do solemnly swear (or affirm) that as a member of this general assembly, I will in all appointments, vote without favor, affection, partiality or prejudice, and that I will not propose or assent to any bill, vote or resolution, which shall appear to me injurious to the people, or consent to any act or thing whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared by the constitution of this state.

III. Any elector who shall receive any gift or reward for his vote, in meat, drink, money or otherwise, shall suffer such punishment as the laws shall direct. And any person who shall directly or indirectly give, promise or bestow, any such reward to be elected, shall thereby be rendered incapable for two years, to serve in the office for which he was elected, and be subject to such further punishment as the legislature shall direct.

IV. No new county shall be established by the general assembly which shall reduce the county or counties, or either of them, from which it shall be taken, to a less content than six hundred and twenty-five square miles. Nor shall any new county be laid off of less contents. All new counties, as to the right of suffrage and representation, shall be considered as a part of the county or counties from which they were taken, until entitled by numbers to the right of representation. No bill shall be passed into a law, for the establishment of a new county, except upon a petition to the general assembly, for that purpose, signed by two hundred of the free male inhabitants within the limits or bounds of such new county, prayed to be laid off.

## ARTICLE X

I. Knoxville shall be the seat of government until the year one thousand

eight hundred and two.

II. All laws and ordinances now in force and use in this territory, not inconsistent with this constitution, shall continue to be in force and use in this state, until they shall expire, be altered or repealed by the legislature.

III. That whenever two thirds of the general assembly shall think it necessary to amend or change this constitution, they shall recommend to the electors, at the next election for members of the general assembly, to vote for or against a convention; and if it shall appear that a majority of all the citizens of the state voting for representatives, have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there may be in the general assembly, to be chosen in the same manner, at the same place and by the same electors, that chose the general assembly, who shall meet within three months after the said election, for the purpose of revising and amending or changing the constitution.

IV. The declaration of rights hereto annexed, is declared to be a part of the constitution of this state, and shall never be violated on any pretence whatever. And to guard against transgression of the high powers which we have delegated, we declare, that every thing in the bill of rights contained and every other right not hereby delegated, is excepted out of the general powers of government, and shall forever remain inviolate.

## ARTICLE XI

### Declaration of Rights

I. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety and happiness; for the advancement of those ends, they have, at all times, an unalienable and indefeasible right to alter, reform or abolish the government in such manner as they may think proper.

II. That government being instituted for the common benefit, the doctrine of nonresistance against arbitrary power and oppression, is absurd, slavish and destructive to the good and happiness of mankind.

III. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no man can, of right, be compelled to attend, erect or support any place of worship, or to maintain any minister against his consent; that no human

authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious establishment or modes of worship.

IV. That no religious test shall ever be required as a qualification to any office or public trust under this state.

V. That elections shall be free and equal.

VI. That the right of trial by jury shall remain inviolate.

VII. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and that general warrants; whereby an officer may be commanded to search suspected places without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty and ought not to be granted.

VIII. That no freeman shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty or property but by the judgment of his peers, or the law of the land.

IX. That in all criminal prosecutions, the accused hath a right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment, or presentment, a speedy public trial, by an impartial jury of the county or district in which the crime shall have been committed; and shall not be compelled to give evidence against himself.

X. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

XI. The laws made for the punishment of facts committed previous to the existence of such laws, and by them only declared criminal, are contrary to the principles of a free government; wherefore no ex post facto law shall be made.

XII. That no conviction shall work corruption of blood or forfeiture of estate. The estate of such persons as shall destroy their own lives, shall descend or vest as in case of natural death. If any person be killed by

casualty, there shall be no forfeiture in consequence thereof.

XIII. That no person arrested or confined in jail, shall be treated with unnecessary rigour.

XIV. That no freeman shall be put to answer any criminal charge but by presentment, indictment or impeachment.

XV. That all prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or the presumption great. And the privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

XVI. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

XVII. That all courts shall be open; and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought against the state in such manner, and in such courts as the legislature may by law direct; provided the right of bringing suit be limited to the citizens of this state.

XVIII. That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison, after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

XIX. That the printing presses shall be free to every person who undertakes to examine the proceedings of the Legislature or of any branch or officer of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions, is one of the invaluable rights of man; and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. But in prosecutions for the publications of papers investigating the official conduct of officers or men in public capacity, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court as in other cases.

XX. That no retrospective law, or law impairing the obligation of contracts, shall be made.

XXI. That no man's particular services shall be demanded, or property taken, or applied to public use, without the consent of his representatives,

or without just compensation being made therefor.

XXII. That the citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address or remonstrance.

XXIII. That perpetuities and monopolies are contrary to the genius of a free state, and shall not be allowed.

XXIV. That the sure and certain defence of a free people is a well regulated militia; and, as standing armies in time of peace, are dangerous to freedom, they ought to be avoided, as far as the circumstances and safety of the community will admit; and that in all cases the military shall be kept in strict subordination to the civil authority.

XXV. That no citizen in this state, except such as are employed in the army of the United States, or militia in actual service, shall be subjected to corporeal punishment under the martial law.

XXVI. That the freemen of this state have a right to keep and to bear arms for their common defence.

XXVII. That no soldier shall, in time of peace, be quartered in any house without consent of the owner, nor in time of war, but in a manner prescribed by law.

XXVIII. That no citizen of this state shall be compelled to bear arms, provided he will pay an equivalent, to be ascertained by law.

XXIX. That an equal participation of the free navigation of the Mississippi, is one of the inherent rights of the citizens of this state; it cannot therefore, be conceded to any prince, potentate, power, person, or persons whatever.

XXX. That no hereditary emoluments, privileges, or honors shall ever be granted or conferred in this state.

XXXI. That the people residing south of French Broad and Holston, between the rivers Tennessee and the Big Pigeon, are entitled to the right of pre-emption and occupancy in that tract.

XXXII. That the limits and boundaries of this state be ascertained; it is declared they are as hereafter mentioned, that is to say: Beginning on the

extreme height of the Stone mountain, at the place where the line of Virginia intersects it, in latitude thirty-six degrees and thirty minutes north, running thence along the extreme height of the said mountain to the place where Watauga river breaks through it, thence a direct course to the top of the Yellow mountain, where Bright's road crosses the same; thence along the ridge of said mountain between the waters of Doe river and the waters of Rock creek to the place where the road crosses the Iron mountain, from thence along the extreme height of said mountain to the place where Nolichucky river runs through the same, thence to the top of the Bald mountain, thence along the extreme height of said mountain to the Painted Rock, on French Broad river, thence along the highest ridge of said mountain, to the place where it is called the Great Iron or Smokey mountain, thence along the extreme height of said mountain to the place where it is called Unicoi or Unaka mountain, between the Indian towns of Cowee and Old Chota, thence along the main ridge of the said mountain to the southern boundary of this state, as described in the act of cession of North Carolina, to the United States of America; and that all the territory, lands and waters lying west of the said line, as before mentioned, and contained within the chartered limits of the state of North Carolina, are within the boundaries and limits of this state, over which the people have the right of exercising sovereignty and right of soil as far as is consistent with the constitution of North Carolina, the cession act of the said state, and the ordinance of the late congress for the government of the territory north west of the Ohio; provided nothing herein contained shall extend to affect the claim or claims of individuals, to any part of the soil which is recognized to them by the aforesaid cession act.

### Schedule

I. That no inconvenience may arise from a change of the temporary to a permanent state government, it is declared, that all rights, actions, prosecutions, claims and contracts, as well of individuals as of bodies corporate, shall continue, as if no change had taken place in the administration of government.

II. All fines, penalties, and forfeitures, due and owing to the territory of the United States of America south of the river Ohio, shall enure to the use of the state. All bonds for performance, executed to the governor of the said territory shall be, and pass over to the governor of this state, and his successors in office, for the use of the state, or by him or them respectively to be assigned over to the use of those concerned, as the case may be.

III. The governor, secretary, judges and brigadiers general have a right, by virtue of their appointments, under the authority of the United States, to continue in the exercise of the duties of their respective offices, in their several departments, until the said officers are superseded under the authority of this constitution.

IV. All officers, civil and military, who have been appointed by the governor, shall continue to exercise their respective offices until the second Monday in June, and until successors in office shall be appointed under the authority of this constitution, and duly qualified.

V. The governor shall make use of his private seal, until a state seal shall be provided.

VI. Until the first enumeration shall be made, as directed in the second section of the first article of this constitution, the several counties shall be respectively entitled to elect one senator and two representatives, provided, that no new county shall be entitled to separate representation previous to taking the enumeration.

VII. That the next election for representatives and other officers, to be held for the county of Tennessee, shall be held at the house of William Miles.

VIII. Until a land office shall be opened, so as to enable the citizens south of French Broad and Holston, between the rivers Tennessee and Big Pigeon, to obtain titles upon their claims of occupancy and pre-emption, those who hold land by virtue of such claims, shall be eligible to serve in all capacities, where a freehold is by this constitution made a requisite qualification.

Done in Convention, at Knoxville, by unanimous consent, on the sixth day of February, in the year of our Lord one thousand seven hundred and ninety-six, and of the Independence of the United States of America, the twentieth. - In testimony whereof, we have hereunto subscribed our names.

William Blount, President.

Blount County

David Craig, James Greenaway, Joseph Black,  
James Houston, Samuel Glass.

Sullivan County

George Rutledge, William C. C. Claiborne, Richard Gammon,  
John Shelby, junior, John Rhea,

Davidson County  
John M'Nairy, Andrew Jackson, James Robertson,  
Thomas Hardiman, Joel Lewis.

Greene County  
Samuel Frazier, Stephen Brooks, William Rankin,  
Elisha Baker, John Galbreath.

Hawkins County  
James Berry, Joseph M'Minn, Thomas Henderson,  
William Cocke, Richard Mitchell.

Jefferson County  
Alexander Outlaw, Joseph Anderson, George Doherty,  
James Roddy, Archibald Roane.

Knox County  
James White, Charles M'Clung,  
John Crawford, John Adair.

Sumner County  
David Shelby, Isaac Walton, W. Douglass,  
Edward Douglass, Daniel Smith.

Sevier County  
Peter Bryan, Samuel Wier, Spencer Clack,  
John Clack, Thomas Buckenham

Tennessee County  
Thomas Johnston, James Ford, William Fort,  
William Prince, Robert Prince.

Washington County  
John Tipton, Samuel Handly, Leeroy Taylor,  
Landon Carter, James Stuart.

Attest,  
William Maclin, Secretary.

Read the 1835 constitution of Tennessee.

Read the 1870 or present constitution of Tennessee.



Read the constitutional history of Tennessee.



# 1835 Constituion of the state of Tennessee

WHEREAS, THE PEOPLE of the territory of the United States, south of the river Ohio, having the right of admission into the General Government as a Member State thereof, consistent with the Constitution of the United States, and the act of cession of the State of North Carolina, recognizing the ordinance for the government of the territory of the United States, north west of the river Ohio, by their Delegates and Representatives in Convention assembled, did, on the sixth day of February, in the year of our Lord one thousand seven hundred and ninety-six, ordain and establish a constitution or form of government; and mutually agreed with each other to form themselves into a free and independent state, by the name of 'THE STATE OF TENNESSEE'; and whereas the General Assembly of said State of Tennessee, (pursuant to the third section of the tenth article of the Constitution) by an act passed on the twenty-seventh day of November, in the year of our Lord one thousand eight hundred and thirty-three, entitled 'An act to provide for the calling of a Convention,' did authorize and provide for the election, by the People, of Delegates and Representatives, to meet at Nashville, in Davidson county, on the third Monday in May, in the year of our Lord one thousand eight hundred and thirty-four, 'for the purpose of revising, and amending (or changing) the Constitution':

WE, therefore, the Delegates and Representatives of the People of the State of Tennessee, elected and in Convention assembled, in pursuance of the said Act of Assembly, have ordained and established the following amended Constitution and form of Government for this State, which we recommend to the People of Tennessee for their ratification; that is to say:

## ARTICLE I. DECLARATION OF RIGHTS

- I. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety and happiness; for the advancement of those ends, they have, at all times, an unalienable and indefeasible right to alter, reform or abolish the government in such manner as they may think proper.
- II. That government being instituted for the common benefit, the doctrine of non-resistance against arbitrary power and oppression, is absurd, slavish and destructive to the good and happiness of mankind.

III. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no man can, of right, be compelled to attend, erect or support any place of worship, or to maintain any Minister against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious establishment or mode of worship.

IV. That no religious test shall ever be required as a qualification to any office or public trust under this State.

V. That elections shall be free and equal.

VI. That the right of trial by jury shall remain inviolate.

VII. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty and ought not to be granted.

VIII. That no free man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers, or the law of the land.

IX. That in all criminal prosecutions, the accused hath a right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the county or district in which the crime shall have been committed; and shall not be compelled to give evidence against himself.

X. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

XI. That laws made for the punishment of facts committed previous to the existence of such laws, and by them only declared criminal, are contrary to the principles of a free government; wherefore no ex post facto law

shall be made.

XII. That no conviction shall work corruption of blood or forfeiture of estate. The estate of such persons as shall destroy their own lives, shall descend or vest as in the case of natural death. If any person be killed by casualty, there shall be no forfeiture in consequence thereof.

XIII. That no person arrested or confined in jail, shall be treated with unnecessary rigor.

XIV. That no free man shall be put to answer any criminal charge but by presentment, indictment or impeachment.

XV. That all prisoners shall be bailable by sufficient sureties unless for capital offences when the proof is evident or the presumption great. And the privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

XVI. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

XVII. That all courts shall be open; and every man, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the State in such manner, and in such courts, as the Legislature may by law direct.

XVIII. That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law.

XIX. That the printing presses shall be free to every person who undertakes to examine the proceedings of the Legislature, or of any branch or officer of Government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty. But in prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the Court, as in other criminal cases.

XX. That no retrospective law, or law impairing the obligation of contracts, shall be made.

XXI. That no man's particular services shall be demanded, or property taken, or applied to public use, without the consent of his representatives, or without just compensation being made therefor.

XXII. That perpetuities and monopolies are contrary to the genius of a free State, and shall not be allowed.

XXIII. That the citizens have a right, in a peaceable manner, to assemble together, for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by address or remonstrance.

XXIV. That the sure and certain defence of a free people, is a well regulated militia: and, as standing armies in time of peace are dangerous to freedom, they ought to be avoided, as far as the circumstances and safety of the community will admit; and that in all cases the military shall be kept in strict subordination to the civil authority.

XXV. That no citizen of this State, except such as are employed in the army of the United States, or militia in actual service, shall be subjected to corporeal punishment under the martial law.

XXVI. That the free white men of this State have a right to keep and to bear arms for their common defence.

XXVII. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by law.

XXVIII. That no citizen of this State shall be compelled to bear arms, provided he will pay an equivalent, to be ascertained by law.

XXIX. That an equal participation of the free navigation of the Mississippi, is one of the inherent rights of the citizens of this State: it cannot, therefore, be conceded to any prince, potentate, power, person or persons whatever.

XXX. That no hereditary emoluments, privileges, or honors, shall ever be granted or conferred in this State.

XXXI. That the limits and boundaries of this State be ascertained, it is

declared they are as hereafter mentioned, that is to say: Beginning on the extreme height of the Stone mountain, at the place where the line of Virginia intersects it, in latitude thirty-six degrees and thirty minutes north; running thence along the extreme height of the said mountain to the place where Watauga river breaks through it; thence a direct course to the top of the Yellow mountain, where Bright's road crosses the same; thence along the ridge of said mountain between the waters of Doe river and the waters of Rock creek, to the place where the road crosses the Iron mountain; from thence along the extreme height of said mountain, to the place where Nolichucky river runs through the same; thence to the top of the Bald mountain; thence along the extreme height of said mountain, to the Painted Rock, on French Broad river; thence along the highest ridge of said mountain, to the place where it is called the Great Iron or Smoky mountain; thence along the extreme height of said mountain, to the place where it is called Unicoi or Unaka mountain, between the Indian towns of Cowee and Old Chota; thence along the main ridge of the said mountain, to the southern boundary of this State, as described in the act of cession of North Carolina to the United States of America: and that all the territory, lands and waters lying west of the said line, as before mentioned, and contained within the chartered limits of the State of North Carolina, are within the boundaries and limits of this State, over which the people have the right of exercising sovereignty and the right of soil, so far as is consistent with the constitution of the United States, recognizing the articles of confederation, the bill of rights, and constitution of North Carolina, the cession act of the said State, and the ordinance of Congress for the government of the territory north west of the Ohio: provided, nothing herein contained shall extend to affect the claim or claims of individuals, to any part of the soil which is recognized to them by the aforesaid cession act: and provided also, that the limits and jurisdiction of this State shall extend to any other land and territory now acquired, or that may hereafter be acquired by compact or agreement with other States or otherwise, although such land and territory are not included within the boundaries herein before designated.

XXXII. The people residing south of French Broad and Holston between the rivers Tennessee and Big Pigeon, are entitled to the right of pre-emption and occupancy in that tract.

## ARTICLE II.

I. The powers of the Government shall be divided into three distinct departments; the Legislative, Executive and Judicial.

II. No person or persons belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein directed or permitted.

III. The Legislative authority of this State shall be vested in General Assembly, which shall consist of a Senate and House of Representatives, both dependent on the people.

IV. An enumeration of the qualified voters and an apportionment of the Representatives of the General Assembly, shall be made in the year one thousand eight hundred and forty-one, and within every subsequent term of ten years.

V. The number of Representatives shall, at the several periods of making the enumeration, be apportioned among the several counties or districts according to the number of qualified voters in each; and shall not exceed seventy-five, until the population of the State shall be one million and a half; and shall never thereafter exceed ninety-nine; provided, that any county having two-thirds of the ratio, shall be entitled to one member.

VI. The number of Senators shall, at the several periods of making the enumeration, be apportioned among the several counties or districts, according to the number of qualified electors in each, and shall not exceed one-third the number of Representatives. In apportioning the Senators among the different counties, the fraction that may be lost by any county or counties, in the apportionment of Members to the House of Representatives, shall be made up to such county or counties in the Senate as near as may be practicable. When a district is composed of two or more counties, they shall be adjoining; and no county shall be divided in forming a district.

VII. The first election for Senators and Representatives shall be held on the first Thursday in August, one thousand eight hundred and thirty-five; and forever thereafter, elections for Members of the General Assembly shall be held once in two years, on the first Thursday in August; said elections shall terminate the same day.

VIII. The first session of the General Assembly shall commence on the first Monday in October, one thousand eight hundred and thirty-five; and forever thereafter, the General Assembly shall meet on the first Monday in October, next ensuing the election.

IX. No person shall be a Representative, unless he shall be a citizen of the



United States of the age of twenty-one years, and shall have been a citizen of this State for three years, and a resident in the county he represents one year immediately preceding the election.

X. No person shall be a Senator unless he shall be a citizen of the United States, of the age of thirty years, and shall have resided thee [three] years in this State, and one year in the county or district, immediately preceding the election. No Senator or Representative shall, during the time for which he was elected, be eligible to any office or place of trust, the appointment to which is vested in the Executive or the General Assembly, except to the office of Trustee of a literary institution.

XI. The Senate and House of Representatives, when assembled, shall each choose a Speaker and its other officers, be judges of the qualifications and election of its members, and sit upon its own adjournments from day to day. Two-thirds of each House shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized by law to compel the attendance of absent members.

XII. Each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence; and shall have all other powers necessary for a branch of the Legislature of a free State.

XIII. Senators and Representatives shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during the session of the General Assembly, and in going to and returning from the same; and, for any speech or debate in either House, they shall not be questioned in any other place.

XIV. Each House may punish by imprisonment, during its session, any person not a Member, who shall be guilty of disrespect to the House, by any disorderly or contemptuous behaviour in its presence.

XV. When vacancies happen in either House, the Governor for the time being, shall issue writs of election to fill such vacancies.

XVI. Neither House shall, during its session, adjourn without consent of the other for more than three days, nor to any other place than that in which the two Houses shall be sitting.

XVII. Bills may originate in either house, but may be amended, altered or

rejected, by the other.

XVIII. Every bill shall be read once on three different days, and be passed each time in the House where it originated, before transmission to the other. No bill shall become a law, until it shall be read and passed on three different days in each House, and be signed by the respective Speakers.

XIX. After a bill has been rejected, no bill containing the same substance shall be passed into a law during the same session.

XX. The style of the laws of this State shall be, 'Be it enacted by the General Assembly of the State of Tennessee.'

XXI. Each House shall keep a journal of its proceedings, and publish it, except such parts as the welfare of the State may require to be kept secret; the ayes and noes shall be taken in each House upon the final passage of every bill of a general character, and bills making appropriations of public moneys; and the ayes and noes of the members on any question shall, at the request of any two of them, be entered on the journal.

XXII. The doors of each House and of Committees of the Whole, shall be kept open, unless when the business shall be such as ought to be kept secret.

XXIII. The sum of four dollars per day, and four dollars for every twenty-five miles travelling to and from the Seat of Government, shall be allowed to the Members of the first General Assembly, as a compensation for their services. The compensation of the Members of the succeeding Legislatures, shall be ascertained by law; but no law increasing the compensation of the Members shall take effect until the commencement of the next regular session after such law shall have been enacted.

XXIV. No money shall be drawn from the treasury, but in consequence of appropriations made by law: and an accurate statement of the receipts and expenditures of the public money, shall be attached to and published with the laws at the rise of each stated session of the General Assembly. \

XXV. No person, who heretofore hath been, or may hereafter be, a collector or holder of public moneys, shall have a seat in either House of the General Assembly, until such person shall have accounted for and paid into the treasury, all sums for which he may be accountable or liable.

XXVI. No Judge of any court of law or equity, Secretary of State, Attorney General, Register, Clerk of any court of record, or person

holding any office under the authority of the United States, shall have a seat in the General Assembly; nor shall any person in this State hold more than one lucrative office at the same time: Provided, that no appointment in the militia, or to the office of Justice of the Peace, shall be considered a lucrative office, or operate as a disqualification to a seat in either House of the General Assembly.

XXVII. Any member of either House of the General Assembly shall have liberty to dissent from, and protest against, any act or resolve which he may think injurious to the public or to any individual, and to have the reasons for his dissent entered on the journals.

XXVIII. All lands liable to taxation, held by deed, grant, or entry, town lots, bank stock, slaves between the ages of twelve and fifty years, and such other property as the Legislature may from time to time deem expedient, shall be taxable. All property shall be taxed according to its value; that value to be ascertained in such manner as the Legislature shall direct, so that the same shall be equal and uniform throughout the State. No other species of property from which a tax may be collected, shall be taxed higher than any other species of property of equal value. But the Legislature shall have power to tax merchants, pedlars, and privileges, in such manner as they may, from time to time, direct. A tax on white polls shall be laid, in such manner and of such an amount, as may be prescribed by law.

XXIX. The General Assembly shall have power to authorize the several Counties and Incorporated Towns in this State, to impose taxes for county and corporation purposes respectively, in such manner as shall be prescribed by law; and all property shall be taxed according to its value, upon the principles established in regard to State taxation.

XXX. No article manufactured of the produce of this State, shall be taxed otherwise than to pay inspection fees.

XXXI. The General Assembly shall have no power to pass laws for the emancipation of slaves, without the consent of their owner or owners.

### ARTICLE III.

I. The Supreme Executive power of this State, shall be vested in a Governor.

II. The Governor shall be chosen by the electors of the Members of the

General Assembly, at the times and places where they shall respectively vote for the members thereof. The returns of every election for Governor shall be sealed up, and transmitted to the seat of government, by the returning officers, directed to the Speaker of the Senate, who shall open and publish them in the presence of a majority of the members of each House of the General Assembly. The person having the highest number of votes, shall be Governor; but if two or more shall be equal, and highest in votes, one of them shall be chosen Governor by joint vote of both Houses of the General Assembly. Contested elections for Governor, shall be determined by both Houses of the General Assembly, in such manner as shall be prescribed by law.

III. He shall be at least thirty years of age, shall be a citizen of the United States, and shall have been a citizen of this State seven years next before his election.

IV. The Governor shall hold his office for two years, and until his successor shall be elected and qualified. He shall not be eligible more than six years in any term of eight.

V. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

VI. He shall have power to grant reprieves and pardons, after conviction, except in cases of impeachment.

VII. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the period for which he shall have been elected.

VIII. He may require information in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

IX. He may, on extraordinary occasions, convene the General Assembly, by proclamation; and shall state to them, when assembled, the purposes for which they shall have been convened; but they shall enter on no legislative business, except that for which they were specially called together.

X. He shall take care that the laws be faithfully executed.

XI. He shall, from time to time, give to the General Assembly,

information of the state of the government, and recommend to their consideration such measures as he shall judge expedient.

XII. In case of the removal of the Governor from office, or of his death, or resignation, the powers and duties of the office shall devolve on the Speaker of the Senate; and in case of the death, removal from office, or resignation of the Speaker of the Senate, the powers and duties of the office shall devolve on the Speaker of the House of Representatives.

XIII. No member of Congress, or person holding any office under the United States, or this State, shall execute the office of Governor.

XIV. When any officer, the right of whose appointment is by this Constitution vested in the General Assembly, shall, during the recess, die, or the office, by the expiration of the term, or by other means, become vacant, the Governor shall have the power to fill such vacancy, by granting a temporary commission, which shall expire at the end of the next session of the Legislature.

XV. There shall be a Seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called the Great Seal of the State of Tennessee.

XVI. All grants and commissions shall be in the name and by the authority of the State of Tennessee, be sealed with the State Seal, and signed by the Governor.

XVII. A Secretary of State shall be appointed by joint vote of the General Assembly, and commissioned during the term of four years: he shall keep a fair register of all the official acts and proceedings of the Governor; and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before the General Assembly: and shall perform such other duties as shall be enjoined by law.

#### ARTICLE IV.

I. Every free white man of the age of twenty-one years, being a citizen of the United States, and a citizen of the County wherein he may offer his vote, six months next preceding the day of election, shall be entitled to vote for Members of the General Assembly, and other civil officers, for the County or District in which he resides: provided, that no person shall be disqualified from voting in any election on account of color, who is now by the laws of this State, a competent witness in a court of justice

against a white man. All free men of color, shall be exempt from military duty in time of peace, and also from paying a free poll tax.

II. Laws may be passed excluding from the right of suffrage, persons who may be convicted of infamous crimes.

III. Electors shall in all cases, except treason, felony or breach of the peace, be privileged from arrest or summons, during their attendance at elections, and in going to and returning from them.

IV. In all elections to be made by the General Assembly, the Members thereof shall vote viva voce; and their votes shall be entered on the journal. All other elections shall be by ballot.

#### ARTICLE V.

I. The House of Representatives shall have the sole power of impeachment.

II. All impeachments shall be tried by the Senate; when sitting for that purpose, the Senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the Senators sworn to try the officer impeached.


III. The House of Representatives shall elect, from their own body, three Members, whose duty it shall be to prosecute impeachments. No impeachment shall be tried until the Legislature shall have adjourned sine die, when the Senate shall proceed to try such impeachment.

IV. The Governor, Judges of the Supreme Court, Judges of Inferior Courts, Chancellors, Attorneys for the State, and Secretary of State, shall be liable to impeachment, whenever they may, in the opinion of the House of Representatives, commit any crime in their official capacity, which may require disqualification; but judgment shall only extend to removal from office, and disqualification to fill any office thereafter. The party shall, nevertheless, be liable to indictment, trial, judgment and punishment, according to law.


V. Justices of the Peace, and other civil officers, not hereinbefore mentioned, for crimes or misdemeanors in office, shall be liable to indictment in such courts as the Legislature may direct; and upon conviction, shall be removed from office, by said court, as if found guilty on impeachment; and shall be subject to such other punishment as may be prescribed by law.

## ARTICLE VI.

I. The Judicial power of this State, shall be vested in one Supreme Court, in such Inferior Courts as the Legislature shall from time to time ordain and establish, and the Judges thereof and in Justices of the Peace: The Legislature may also vest such jurisdiction as may be deemed necessary in Corporation Courts.



II. The Supreme Court shall be composed of three Judges, one of whom shall reside in each of the grand divisions of the State; the concurrence of two of said Judges, shall in every case be necessary to a decision. The jurisdiction of this Court shall be appellate only, under such restrictions and regulations as may from time to time be prescribed by law; but it may possess such other jurisdiction as is now conferred by law on the present Supreme Court. Said Courts shall be held at one place, and at one place only, in each of the three grand divisions in the State.



III. The General Assembly shall, by joint vote of both Houses, appoint Judges of the several Courts of law and equity; but courts may be established to be holden by Justices of the Peace. Judges of the Supreme Court shall be thirty-five years of age, and shall be elected for the term of twelve years.

IV. The Judges of such Inferior Courts as the Legislature may establish, shall be thirty years of age, and shall be elected for the term of twelve years.

V. The Legislature shall elect Attorneys for the State, by joint vote of both Houses, of the General Assembly, who shall hold their offices for the term of six years. In all cases where an Attorney for any district fails or refuses to attend, and prosecute according to law, the court shall have power to appoint an attorney pro tempore.

VI. Judges and Attorneys for the State, may be removed from office by a concurrent vote of both Houses of the General Assembly, each House voting separately; but two-thirds of all the Members elected to each House must concur in such vote: the vote shall be determined by ayes and noes, and the names of the Members voting for or against the Judge or Attorney for the State, together with the cause or causes of removal, shall be entered on the journals of each House respectively. The Judge or Attorney for the State, against whom the Legislature may be about to proceed, shall receive notice thereof, accompanied with a copy of the causes alleged for his removal, at least ten days before the day on which either House of the

General Assembly shall act thereupon.

VII. The Judges of the Supreme and Inferior Courts, shall, at stated times, receive a compensation for their services, to be ascertained by law, which shall not be increased or diminished, during the time for which they are elected. They shall not be allowed any fees or perquisites of office, nor hold any other office of trust or profit under this State or the United States.

VIII. The jurisdiction of such Inferior Courts, as the Legislature may from time to time establish, shall be regulated by law.

IX. Judges shall not charge Juries with respect to matters of fact, but may state the testimony and declare the law.

X. The Judges or Justices of such Inferior Courts of law as the Legislature may establish, shall have power, in all civil cases, to issue writs of certiorari to remove any cause or transcript thereof, from any inferior jurisdiction, into said court on sufficient cause supported by oath or affirmation.

XI. No Judge of the Supreme or Inferior Courts, shall preside on the trial of any cause, in the event of which he may be interested or where either of the parties shall be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or in which he may have been of counsel, or in which he may have presided in any Inferior Court, except by consent of all the parties. In case all or any of the Judges of the Supreme Court, shall be thus disqualified from presiding on the trial of any cause or causes, the Court, or the Judges thereof, shall certify the same to the Governor of the State, and he shall forthwith specially commission the requisite number of men of law knowledge, for the trial and determination thereof. In case of sickness of any of the Judges of the Supreme or Inferior Courts, so that they or any of them are unable to attend, the Legislature shall be authorized to make provision by general laws, that special Judges may be appointed to attend said Courts.

XII. All writs and other process shall run in the name of the State of Tennessee; and bear test and be signed by the respective clerks. Indictments shall conclude, 'against the peace and dignity of the State.'

XIII. Judges of the Supreme Court shall appoint their Clerks, who shall hold their offices for the period of six years. Chancellor (if Courts of Chancery shall be established) shall appoint their Clerks and Masters, who



shall hold their offices for the period of six years. Clerks of such Inferior Courts as may be hereafter established, which shall be required to be holden in the respective counties of this State, shall be elected by the qualified voters thereof, for the term of four years; they shall be removed from office for malfeasance, incompetency or neglect of duty, in such manner as may be prescribed by law.

XIV. No fine shall be laid on any citizen of this State, that shall exceed fifty dollars; unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine should be more than fifty dollars.

XV. The different counties in this State shall be laid off as the General Assembly may direct, into districts of convenient size, so that the whole number in each County shall not be more than twenty-five, or four for every one hundred square miles. There shall be two Justices of the Peace and one Constable elected in each district, by the qualified voters therein, except districts including county towns, which shall elect three Justices and two Constables. The jurisdiction of said officers shall be co-extensive with the County. Justices of the Peace shall be elected for the term of six, and Constables for the term of two years. Upon the removal of either of said officers from the district in which he was elected, his office shall become vacant from the time of such removal. Justices of the Peace shall be commissioned by the Governor. The Legislature shall have power to provide for the appointment of an additional number of Justices of the Peace in incorporated towns.

## ARTICLE VII.

I. There shall be elected in each County, by the qualified voters therein, one Sheriff, one Trustee, and one Register; the Sheriff and Trustee for two years, and the Register for four years: provided, that no person shall be eligible to the office of Sheriff more than six years in any term of eight years. There shall be elected for each County, by the Justices of the Peace, one Coroner and one Ranger, who shall hold their offices for two years. Said officers shall be removed for malfeasance, or neglect of duty, in such manner as may be prescribed by law.

II. Should a vacancy occur, subsequent to an election, in the office of sheriff, trustee, or register, it shall be filled by the justices; if in that of the clerks to be elected by the people, it shall be filled by the courts; and the person so appointed, shall continue in office until his successor shall be elected and qualified; and such office shall be filled by the qualified voters

at the first election for any of the county officers.

III. There shall be a Treasurer or Treasurers appointed for the State, by the joint vote of both Houses of the General Assembly, who shall hold his or their offices for two years.

IV. The election of all officers, and the filling of all vacancies that may happen, by death, resignation, or removal, not otherwise directed or provided for by this Constitution, shall be made in such manner as the Legislature shall direct.

IIV. The Legislature shall provide, that the election of the county and other officers by the people, shall not take place at the same time that the general elections are held for Members of Congress, Members of the Legislature, and Governor. The elections shall commence and terminate on the same day.

#### ARTICLE VIII.

I. All Militia officers shall be elected by persons subject to military duty, within the bounds of their several companies, battalions, regiments, brigades and divisions, under such rules and regulations as the Legislature may, from time to time, direct and establish.

II. The Governor shall appoint the Adjutant General and his other Staff Officers; the Majors General, Brigadiers General and commanding officers of regiments, shall respectively appoint their Staff Officers.

III. The Legislature shall pass laws, exempting citizens belonging to any sect or denomination of religion, the tenets of which are known to be opposed to the bearing of arms, from attending private and general musters.

#### ARTICLE IX.

I. Whereas, Ministers of the Gospel are, by their profession, dedicated to God and the care of souls, and ought not to be diverted from the great duties of their functions; therefore, no Minister of the Gospel or Priest of any denomination whatever, shall be eligible to a seat in either House of the Legislature.

II. No person who denies the being of a God, or a future state of rewards and punishments, shall hold any office in the civil department of this State.

III. Any person who shall, after the adoption of this Constitution, fight a duel, or knowingly be the bearer of a challenge to fight a duel, or send or accept a challenge for that purpose, or be an aider or abettor in fighting a duel, shall be deprived of the right to hold any office of honor or profit in this State, and shall be punished otherwise, in such manner as the Legislature may prescribe.

## ARTICLE X.

I. Every person who shall be chosen or appointed to any office of trust or profit, under this Constitution, or any law made in pursuance thereof, shall, before entering on the duties thereof, take an oath to support the Constitution of this State, and of the United States, and an oath of office.

II. Each Member of the Senate and House of Representatives, shall before they proceed to business, take an oath or affirmation, to support the Constitution of this State, and of the United States, and also the following oath:

"I, \_\_\_\_\_, do solemnly swear (or affirm,) that, as a Member of this General Assembly, I will, in all appointments, vote without favor, affection, partiality, or prejudice; and that I will not propose or assent to any bill, vote or resolution, which shall appear to me injurious to the people, or consent to any act or thing whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared by the Constitution of this State.

III. Any elector who shall receive any gift or reward for his vote, in meat, drink, money, or otherwise, shall suffer such punishment as the laws shall direct. And any person who shall directly or indirectly give, promise or bestow, any such reward to be elected, shall thereby be rendered incapable for six years, to serve in the office for which he was elected, and be subject to such further punishment, as the Legislature shall direct.

IV. New Counties may be established by the Legislature, to consist of not less than three hundred and fifty square miles, and which shall contain a population of four hundred and fifty qualified voters. No line of such county shall approach the court house of any old County from which it may be taken, nearer than twelve miles. No part of a county shall be taken to form a new County or a part thereof, without the consent of a majority of the qualified voters in such part taken off. And in all cases where an old County may be reduced for the purpose of forming a new one, the seat of justice in said old county shall not be removed without the concurrence of

two-thirds of both branches of the Legislature, nor shall said old county be reduced to less than six hundred and twenty-five square miles: provided, however that the county of Bedford may be reduced to four hundred and seventy-five square miles; and there shall not be laid off more than one new county on the West, and one on the East, adjoining the county of Bedford, and no new county line shall run nearer than eleven and a half miles of the seat of justice of said county. The line of a new county may run within eleven miles of the seat of justice of Franklin county; provided, it does not reduce said county to less contents than six hundred and twenty-five square miles. The counties of Carter, Rhea, Tipton, Dyer and Sullivan are excepted out of the provisions of this section: the county of Humphreys may be divided, at such time as may be prescribed by the Legislature, making the Tennessee river the dividing line; a majority of the qualified voters of said county voting in favor of said division: the counties of Carter, Rhea and Humphreys, shall not be divided into more than two counties each; nor shall more than one new county be taken out of the territory no comprising the counties of Tipton and Dyer; nor shall the seats of justice in the counties of Rhea, Carter, Tipton and Dyer, be removed, without the concurrence of two-thirds of both branches of the Legislature. The county of Sullivan may be reduced below the contents of six hundred and twenty-five square miles, but the line of any new county which may hereafter be laid off shall not approach the county seat of said county nearer than ten miles. The counties of Marion and Bledsoe shall not be reduced below one thousand qualified voters each, in forming a new county or counties.

V. The citizens who may be included in any new county, shall vote with the county or counties from which they may have been stricken off, for members of Congress, for Governor and for members of the General Assembly, until the next apportionment of members to the General Assembly after the establishment of such new county.

## ARTICLE XI.

- I. All laws and ordinances now in force and use in this State, not inconsistent with this Constitution, shall continue in force and use, until they shall expire, be altered or repealed by the Legislature.
- II. Nothing contained in this Constitution, shall impair the validity of any debts or contracts, or effect any rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.
- III. Any amendment or amendments to this Constitution may be proposed

in the Senate or House of Representatives; and if the same shall be agreed to by a majority of all the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays thereon, and referred to the General Assembly then next to be chosen: and shall be published for six months previous to the time of making such choice. And if in the General Assembly next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each House, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people, in such manner, and at such time, as the General Assembly shall prescribe. And if the people shall approve and ratify such amendment or amendments, by a majority of all the citizens of the State, voting for Representatives, voting in their favor, such amendment or amendments shall become part of this Constitution. When any amendment or amendments to the Constitution shall be proposed in pursuance of the foregoing provisions, the same shall at each of the said sessions be read three times on three several days in each House. The Legislature shall not propose amendments to the Constitution, oftener than once in six years.

IV. The Legislature shall have no power to grant divorces, but may authorize the courts of justice to grant them for such causes as may be specified by law: provided, that such laws be general and uniform in their operation throughout the State.

V. The Legislature shall have no power to authorize lotteries for any purpose, and shall pass laws to prohibit the sale of lottery tickets in this State.

VI. The Legislature shall fix the rate of interest - and the rate so established shall be equal and uniform throughout the State.

VII. The Legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefits of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals, rights, privileges, immunities, or exemptions, other than such as may be, by the same law, extended to any member of the community, who may be able to bring himself within the provisions of such law: provided always, the Legislature shall have power to grant such charters of corporation as they may deem expedient for the public good.

VIII. The Legislature shall have the right to vest such powers in the courts

of justice, with regard to private and local affairs, as may be deemed expedient.

IX. A well regulated system of internal improvement is calculated to develop the resources of the State, and promote the happiness and prosperity of her citizens; therefore it ought to be encouraged by the General Assembly.

X. Knowledge, learning, and virtue, being essential to the preservation of republican institutions, and the diffusion of the opportunities and advantages of education throughout the different portions of the State, being highly conducive to the promotion of this end; it shall be the duty of the General Assembly in all future periods of this government, to cherish literature and science. And the fund called the common school fund, and all the lands and proceeds thereof, dividends, stocks, and other property of every description whatever, heretofore by law appropriated by the General Assembly of this State for the use of common schools, and all such as shall hereafter be appropriated, shall remain a perpetual fund, the principal of which shall never be diminished by legislative appropriation, and the interest thereof shall be inviolably appropriated to the support and encouragement of common schools throughout the State, and for the equal benefit of all the people thereof; and no law shall be made authorizing said fund, or any part thereof, to be diverted to any other use than the support and encouragement of common schools; and it shall be the duty of the General Assembly, to appoint a Board of Commissioners, for such term of time as they may think proper, who shall have the general superintendence of said fund, and who shall make a report of the condition of the same, from time to time, under such rules, regulations and restrictions as may be required by law; provided, that if at any time hereafter a division of the public lands of the United States, or of the money arising from the sales of such lands, shall be made among the individual States, the part of such lands, or money, coming to this State, shall be devoted to the purposes of education and internal improvements; and shall never be applied to any other purpose.

XI. The above provisions shall not be construed to prevent the Legislature from carrying into effect any laws that have been passed in favor of the colleges, universities or academies, or from authorizing heirs or distributees to receive and enjoy escheated property, under such rules and regulations as from time to time may be prescribed by law.

XII. The Declaration of Rights hereto prefixed, is declared to be a part of the Constitution of this State, and shall never be violated on any pretence

whatever. And to guard against transgression of the high powers we have delegated, we declare every thing in the Bill of Rights contained, is excepted out of the general powers of government, and shall forever remain inviolate.

#### Schedule.

I. That no inconvenience may arise from a change of the Constitution, it is declared, that all officers, civil and military, shall continue to hold their offices; and all the functions appertaining to the same shall be exercised and performed according to the existing laws and Constitution, until the end of the first session of the General Assembly, which shall sit under this Constitution, and until the government can be re-organized and put into operation under this Constitution, in such manner as the first General Assembly under this Constitution shall be held in Nashville.

II. The General Assembly which shall sit after the first apportionment of representation under the new Constitution, to wit, in the year one thousand eight hundred and forty-three, shall, within the first week after the commencement of the session, designate and fix the seat of government; and when so fixed; it shall not be removed except by the consent of two-thirds of the members of both Houses of the General Assembly. The first and second sessions of the General Assembly under this Constitution shall be held at Nashville.

III. Until a land office shall be opened, so as to enable the citizens south and west of the congressional reservation line, to obtain titles upon their claims of occupancy, those who hold lands by virtue of such claims, shall be eligible to serve in all capacities where a freehold is, by the laws of the State, made a requisite qualification.

Done in Convention at Nashville, this thirtieth day of August, one thousand eight hundred and thirty-four, and of the Independence of the United States of America the fifty-ninth, In testimony whereof, we have hereunto subscribed our names.

William B. Carter, President.

Robert Allen, William Ledbetter, Hugh C. Armstrong, William H. Loving, Adan R. Alexander, Abraham McClellan,

Richard Bradshaw, Robert J. McKinney, Robert M. Burton, Joseph A. Mabry, Willie Blount, John McGaughey,

Maclin Cross, John Montgomery, James Gray, George W. L. Marr, Newton Cannon, John Neil,

William G. Childress, Richard Nelson, Terry H. Cahal, Thomas C. Porter, Robert L. Cobbs, John Purdy,

Richard Cheatham, William C. Roadman, Burchett Douglass, George W. Richardson, Francis B. Fogg, Henry Ridley,

Gray Garrett, Julius C. N. Robertson, James Gillespy, Matthew Stephenson, Bolling Gordon, William T. Senter,

Callaway Hodges, James W. Smith, Isaac Hill, William C. Smartt, Adam Huntsman, Henry Sharp,

West H. Humphreys, James Scott, Nelson I. Hess, Essie Ury, John Kelly, John Whitson,

Andrew A. Kincannon, Isaac Walton, Joseph Kincaid, John J. White,

Peter Kendall, Jonathan Webster, Bradley Kimbrough, Robert Weakley.

William K. Hill, Secretary.

Read the 1796 constitution of Tennessee.

Read the 1870 or present constitution of Tennessee.

Read the constitutional history of Tennessee.





# 1870 Constitution of the state of Tennessee

## PREAMBLE AND DECLARATION OF RIGHTS

WHEREAS, The people of the territory of the United States south of the river Ohio, having the right of admission into the General Government as a member State thereof, consistent with the Constitution of the United States, and the act of Cession of the State of North Carolina, recognizing the ordinance for the government of the territory--of the United States north west of the Ohio River, by their Delegates and representatives in Convention assembled, did on the sixth day of February, in the year of our Lord one thousand seven hundred and ninety-six, ordain and establish a Constitution, or form of government, and mutually agreed with each other to form themselves into a free and independent State by the name of the State of Tennessee, and,

WHEREAS, The General Assembly of the said State of Tennessee, (pursuant to the third section of the tenth article of the Constitution), by an act passed on the Twenty-seventh day of November, in the year of our Lord one thousand eight hundred and thirty-three, entitled, "An Act" to provide for the calling of a Convention, passed in obedience to the declared will of the voters of the State, as expressed at the general election of August, in the year of our Lord one thousand eight hundred and thirty-three, did authorize and provide for the election by the people of delegates and representatives, to meet at Nashville, in Davidson County, on the third Monday in May, in the year of our Lord one thousand eight hundred and thirty-four, for the purpose of revising and amending, or changing, the Constitution, and said Convention did accordingly meet and form a Constitution, which was submitted to the people, and was ratified by them, on the first Friday in March, in the year of our Lord one thousand eight hundred and thirty-five, and,

WHEREAS, The General Assembly of said State of Tennessee, under and in virtue of the first section of the first article of the Declaration of Rights, contained in and forming a part of the existing Constitution of the State, by an act passed on the fifteenth day of November, in the year of our Lord one thousand eight hundred and sixty-nine, did provide for the calling of a Convention by the people of the State, to meet at Nashville, on the second Monday in January, in the year of our Lord one thousand eight hundred and seventy, and for the election of delegates for the purpose of amending or revising the present Constitution, or forming and making a new Constitution; and,

WHEREAS, The people of the State, in the mode provided by said Act, have called said Convention, and elected Delegates to Represent them therein; Now, therefore,

We, the Delegates and Representatives of the people of the State of Tennessee, duly elected, and in Convention assembled, in pursuance of said Act of Assembly, have ordained and established the following Constitution and form of government for this State, which we recommend to the people of Tennessee for their ratification: That is to say--

## ARTICLE I DECLARATION OF RIGHTS

**Sec. 1. All power inherent in the people.--** Government under their control.--That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; for the advancement of those ends they have at all times, an unalienable and indefeasible right to alter, reform, or abolish the government in such manner as they may think proper.

**Sec. 2. Doctrine of nonresistance condemned.--**That government being instituted for the common benefit, the doctrine of nonresistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

**Sec. 3. Freedom of worship.--**That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any minister against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious establishment or mode of worship.

**Sec. 4. No religious or political test.--**That no political or religious test, other than an oath to support the Constitution of the United States and of this State, shall ever be required as a qualification to any office or public trust under this State.

**Sec. 5. Elections to be free and equal--Right of suffrage.--**The elections shall be free and equal, and the right of suffrage, as hereinafter declared, shall never be denied to any person entitled thereto, except upon conviction by a jury of some infamous crime, previously ascertained and declared by law, and judgment thereon by court of competent jurisdiction.

**Sec. 6. Trial by jury--Qualifications of jurors.**--That the right of trial by jury shall remain inviolate, and no religious or political test shall ever be required as a qualification for jurors.

**Sec. 7. Unreasonable searches and seizures--General warrants.**-- That the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty and ought not to be granted.

**Sec. 8. No man to be disturbed but by law.**--That no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers or the law of the land.

**Sec. 9. Right of the accused in criminal prosecutions.**--That in all criminal prosecutions, the accused hath the right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the County in which the crime shall have been committed, and shall not be compelled to give evidence against himself.

**Sec. 10. Double jeopardy prohibited.**--That no person shall, for the same offence, be twice put in jeopardy of life or limb.

**Sec. 11. No ex post facto laws.**--That laws made for the punishment of acts committed previous to the existence of such laws, and by them only declared criminal, are contrary to the principles of a free Government; wherefore no Ex post facto law shall be made.

**Sec. 12. No corruption of blood or forfeiture of estates.**--That no conviction shall work corruption of blood or forfeiture of estate. The estate of such persons as shall destroy their own lives shall descend or vest as in case of natural death. If any person be killed by casualty, there shall be no forfeiture in consequence thereof.

**Sec. 13. Treatment after arrest.**--That no person arrested and confined in jail shall be treated with unnecessary rigor.

**Sec. 14. Prerequisites to criminal charge.**--That no person shall be put to answer any criminal charge but by presentment, indictment or impeachment.

**Sec. 15. Bailable offenses--Habeas corpus.**--That all prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, or the presumption great. And the privilege of the writ of Habeas Corpus shall not be suspended, unless when in case of rebellion or invasion, the General Assembly shall declare the public safety requires it.

**Sec. 16. Restrictions on bail, fines and punishment.**--That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**Sec. 17. Open courts--Redress of injuries--Suits against the State.**--That all courts shall be open; and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the State in such manner and in such courts as the Legislature may by law direct.

**Sec. 18. No imprisonment for debt.**--The Legislature shall pass no law authorizing imprisonment for debt in civil cases.

**Sec. 19. Freedom of speech and press.**--That the printing presses shall be free to every person to examine the proceedings of the Legislature; or of any branch or officer of the government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions, is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. But in prosecutions for the publication of papers investigating the official conduct of officers, or men in public capacity, the truth thereof may be given in evidence; and in all indictments for libel, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other criminal cases.

**Sec. 20. No retrospective laws.**--That no retrospective law, or law impairing the obligations of contracts, shall be made.

**Sec. 21. No man's services or property taken without consent or compensation.**--That no man's particular services shall be demanded, or property taken, or applied to public use, without the consent of his representatives, or without just compensation being made therefor.

**Sec. 22. No perpetuities or monopolies.**--That perpetuities and monopolies are contrary to the genius of a free State, and shall not be allowed.

**Sec. 23. Right of assembly.**--That the citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address or remonstrance.

**Sec. 24. Militia--Civil authority.**--That the sure and certain defense of a free people, is a well regulated militia; and, as standing armies in time of peace are dangerous to freedom, they ought to be avoided as far as the circumstances and safety of the community will admit; and that in all cases the military shall be kept in strict subordination to the civil authority.

**Sec. 25. Martial law--Punishment.**--That no citizen of this State, except such as are employed in the army of the United States, or militia in actual service, shall be subjected to punishment under the martial or military law. That martial law, in the sense of the unrestricted power of military officers, or others, to dispose of the persons, liberties or property of the citizen, is inconsistent with the principles of free government, and is not confided to any department of the government of this State.

**Sec. 26. Right to bear arms--Regulations.**--That the citizens of this State have a right to keep and to bear arms for their common defense; but the Legislature shall have power, by law, to regulate the wearing of arms with a view to prevent crime.

**Sec. 27. Quartering soldiers.**--That no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by law.

**Sec. 28. No one compelled to bear arms.**--That no citizen of this State shall be compelled to bear arms, provided he will pay an equivalent, to be ascertained by law.

**Sec. 29. Navigation of the Mississippi.**--That an equal participation in the free navigation of the Mississippi, is one of the inherent rights of the citizens of this State; it cannot, therefore, be conceded to any prince, potentate, power, person or persons whatever.

**Sec. 30. No hereditary honors.**--That no hereditary emoluments, privileges, or honors, shall ever be granted or conferred in this State.

**Sec. 31. Boundaries of the state.**--That the limits and boundaries of this State be ascertained, it is declared they are as hereafter mentioned, that is to say: Beginning on the extreme height of the Stone mountain, at the place where the line of Virginia intersects it, in latitude thirty-six degrees and thirty minutes north; running thence along the extreme height of the said mountain, to the place where Watauga river breaks through it; thence a direct course to the top of the Yellow Mountain, where Bright's road crosses the same; thence along the ridge of said mountain, between the waters of Doe river and the waters of Rock creek, to the place where the road crosses the Iron Mountain; from thence along the extreme height of said mountain, to the place where Nolichucky river runs through the same; thence to the top of the Bald Mountain; thence along the extreme height of said mountain to the Painted Rock, on French Broad river; thence along the highest ridge of said mountain, to the place where it is called the Great Iron or Smoky Mountain; thence along the extreme height of said mountain to the place where it is called Unicoi or Unaka Mountain, between the Indian towns of Cowee and Old Chota; thence along the main ridge of the said mountain to the southern boundary of this State, as described in the act of cession of North Carolina to the United States of America; and that all the territory, lands and waters lying west of said line, as before mentioned, and contained within the chartered limits of the State of North Carolina, are within the boundaries and limits of this State, over which the people have the right of exercising sovereignty, and the right of soil, so far as is consistent with the Constitution of the United States, recognizing the Articles of Confederation, the Bill of Rights and Constitution of North Carolina, the cession act of the said State, and the ordinance of Congress for the government of the territory northwest of the Ohio; Provided, nothing herein contained shall extend to affect the claim or claims of individuals to any part of the soil which is recognized to them by the aforesaid cession act; And provided also, That the limits and jurisdiction of this State shall extend to any other land and territory now acquired, or that may hereafter be acquired, by compact or agreement with other States, or otherwise, although such land and territory are not included within the boundaries herein before designated.

**Sec. 32. Prisons and prisoners.**--That the erection of safe and comfortable prisons, the inspection of prisons, and the humane treatment of prisoners, shall be provided for.

**Sec. 33. Slavery prohibited.**--That slavery and involuntary servitude,

except as a punishment for crime, whereof the party shall have been duly convicted, are forever prohibited in this State.

**Sec. 34. Right of property in man.**--The General Assembly shall make no law recognizing the right of property in man.

## ARTICLE II DISTRIBUTION OF POWERS

**Sec. 1. Division of powers.**--The powers of the Government shall be divided into three distinct departments: The Legislative, Executive, and Judicial.

**Sec. 2. Limitation of Powers.**--No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases herein directed or permitted.

**Sec. 3. Legislative authority--Term of office.**--The Legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives, both dependent on the people. Representatives shall hold office for two years and Senators for four years from the day of the general election, except that the Speaker of the Senate and the Speaker of the House of Representatives, each shall hold his office as Speaker for two years or until his successor is elected and qualified, provided however, that in the first general election after adoption of this amendment Senators elected in districts designated by even numbers shall be elected for four years and those elected in districts designated by odd numbers shall be elected for two years. In a county having more than one senatorial district, the districts shall be numbered consecutively. [As amended: Adopted in Convention December 9, 1965; approved at election November 8, 1966; Proclaimed by Governor, December 2, 1966.]

**Sec. 4. Appointment of senators and representatives.**--The apportionment of Senators and Representatives shall be substantially according to population. After each decennial census made by the Bureau of Census of the United States is available the General Assembly shall establish senatorial and representative districts. Nothing in this Section nor in this Article II shall deny to the General Assembly the right at any time to apportion one House of the General Assembly using geography, political subdivisions, substantially equal population and other criteria as factors; provided such apportionment when effective shall comply with the Constitution of the United States as then amended or authoritatively



interpreted. If the Constitution of the United States shall require that Legislative apportionment not based entirely on population be approved by vote of the electorate, the General Assembly shall provide for such vote in the apportionment act. [As amended; Adopted in Convention December 9, 1965; approved at election November 8, 1966; Proclaimed by Governor, December 2, 1966.]

**Sec. 5. Number of representatives--Apportionment.**--The number of Representatives shall be ninety-nine and shall be apportioned by the General Assembly among the several counties or districts as shall be provided by law. Counties having two or more Representatives shall be divided into separate districts. In a district composed of two or more counties, each county shall adjoin at least one other county of such district; and no county shall be divided in forming such a district. [As amended; Adopted in Convention December 9, 1965; approved at election November 8, 1966; Proclaimed by Governor, December 2, 1966.]

**Sec. 5a. Representation by qualified voter.**--Each district shall be represented by a qualified voter of that district. [As added; Adopted in Convention December 10, 1965; approved at election November 8, 1966; Proclaimed by Governor, December 2, 1966.]

**Sec. 6. Number of Senators--Appointment.**--The number of Senators shall be apportioned by the General Assembly among the several counties or districts substantially according to population, and shall not exceed one-third the number of Representatives. Counties having two or more Senators shall be divided into separate districts. In a district composed of two or more counties, each county shall adjoin at least one other county of such district; and no county shall be divided in forming such a district. [As amended; Adopted in Convention December 9, 1965; approved at election November 8, 1966; Proclaimed by Governor, December 2, 1966.]

**Sec. 6a. Representation by qualified voter.**--Each district shall be represented by a qualified voter of that district. [As added; Adopted in Convention December 10, 1965; approved at election November 8, 1966; Proclaimed by Governor, December 2, 1966.]

**Sec. 7. Time of elections.**--The first election for Senators and Representatives shall be held on the second Tuesday in November, one thousand eight hundred and seventy; and forever thereafter, elections for members of the General Assembly shall be held once in two years, on the first Tuesday after the first Monday in November. Said elections shall terminate the same day.

**Sec. 8. Legislative sessions--**Governor's inauguration.--The General Assembly shall meet in organizational session on the second Tuesday in January next succeeding the election of the members of the House of Representatives, at which session, if in order, the Governor shall be inaugurated. The General Assembly shall remain in session for organizational purposes not longer than fifteen consecutive calendar days, during which session no legislation shall be passed on third and final consideration.

Thereafter, the General Assembly shall meet on the first Tuesday next following the conclusion of the organizational session unless the General Assembly by joint resolution of both houses sets an earlier date.

The General Assembly may by joint resolution recess or adjourn until such time or times as it shall determine. It shall be convened at other times by the Governor as provided in Article III, Section 9, or by the presiding officers of both Houses at the written request of two thirds of the members of each House. [As amended; Adopted in Convention December 10, 1965; approved at election November 8, 1966; Proclaimed by Governor, December 2, 1966; As amended, Adopted in Convention December 20, 1977; approved at election March 7, 1978; Proclaimed by Governor, March 31, 1978.]

**Sec. 9. Qualifications of representatives.--**No person shall be a Representative unless he shall be a citizen of the United States, of the age of twenty-one years, and shall have been a citizen of this State for three years, and a resident in the county he represents one year, immediately preceding the election.

**Sec. 10. Senators--**Qualifications.--No person shall be a Senator unless he shall be a citizen of the United States, of the age of thirty years, and shall have resided three years in this State, and one year in the county or district, immediately preceding the election. No Senator or Representative shall, during the time for which he was elected, be eligible to any office or place of trust, the appointment to which is vested in the Executive or the General Assembly, except to the office of trustee of a literary institution.

**Sec. 11. Election of officers--Quorum--Adjournments. --**The Senate and House of Representatives, when assembled, shall each choose a speaker and its other officers; be judges of the qualifications and election of its members, and sit upon its own adjournments from day to day. Not less than two-thirds of all the members to which each house shall be entitled shall constitute a quorum to do business; but a smaller number

may adjourn from day to day, and may be authorized, by law, to compel the attendance of absent members.

**Sec. 12. Each house to make its own rules.**--Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence; and shall have all other powers necessary for a branch of the Legislature of a free State.

**Sec. 13. Privilege of members.**--Senators and Representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the General Assembly, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

**Sec. 14. Power to punish other than members.**--Each House may punish by imprisonment, during its session, any person not a member, who shall be guilty of disrespect to the House, by any disorderly or any contemptuous behavior in its presence.

**Sec. 15. Vacancies.**--When the seat of any member of either House becomes vacant, the vacancy shall be filled as follows:

(a) When twelve months or more remain prior to the next general election for legislators, a successor shall be elected by the qualified voters of the district represented, and such successor shall serve the remainder of the original term. The election shall be held within such time as provided by law. The legislative body of the replaced legislator's county of residence at the time of his or her election may elect an interim successor to serve until the election.

(b) When less than twelve months remain prior to the next general election for legislators, a successor shall be elected by the legislative body of the replaced legislator's county of residence at the time of his or her election. The term of any Senator so elected shall expire at the next general election for legislators, at which election a successor shall be elected.

(c) Only a qualified voter of the district represented shall be eligible to succeed to the vacant seat. [As amended; Adopted in Convention December 10, 1965; approved at election November 8, 1966; Proclaimed by Governor, December 2, 1966; As amended; Adopted in Convention October 24, 1977; approved at election March 7, 1978; Proclaimed by

Governor, March 31, 1978.]

**Sec. 16. Limitation upon power of adjournment.**--Neither House shall, during its session, adjourn without the consent of the other for more than three days, nor to any other place than that in which the two Houses shall be sitting.

**Sec. 17. Origin and frame of bills.**--Bills may originate in either House; but may be amended, altered or rejected by the other. No bill shall become a law which embraces more than one subject, that subject to be expressed in the title. All acts which repeal, revive or amend former laws, shall recite in their caption, or otherwise, the title or substance of the law repealed, revived, or amended.

**Sec. 18. Passage of bills.**--A bill shall become law when it has been considered and passed on three different days in each House and on third and final consideration has received the assent of a majority of all the members to which each House is entitled under this Constitution, when the respective speakers have signed the bill with the date of such signing appearing in the journal, and when the bill has been approved by the Governor or otherwise passed under the provisions of this Constitution. [As amended; Adopted in Convention September 29, 1977; approved at election March 7, 1978; Proclaimed by Governor, March 31, 1978.]

**Sec. 19. Rejection of bill.**--After a bill has been rejected, no bill containing the same substance shall be passed into a law during the same session.

**Sec. 20. Style of laws--Effective date.**--The style of the laws of this state shall be, "Be it enacted by the General Assembly of the State of Tennessee." No law of a general nature shall take effect until forty days after its passage unless the same or the caption thereof shall state that the public welfare requires that it should take effect sooner.

**Sec. 21. Journal of proceedings.**--Each House shall keep a journal of its proceedings, and publish it, except such parts as the welfare of the State may require to be kept secret; the ayes and noes shall be taken in each House upon the final passage of every bill of a general character, and bills making appropriations of public moneys; and the ayes and noes of the members on any question, shall, at the request of any five of them, be entered on the journal.

**Sec. 22. Open sessions and meetings--Exception.**--The doors of each

House and of committees of the whole shall be kept open, unless when the business shall be such as ought to be kept secret.

**Sec. 23. Compensation of members of General Assembly.**--Each member of the General Assembly shall receive an annual salary of \$1,800.00 per year payable in equal monthly installments from the date of his election, and in addition, such other allowances for expenses in attending sessions or committee meetings as may be provided by law. The Senators, when sitting as a Court of Impeachment, shall receive the same allowances for expenses as have been provided by law for the members of the General Assembly. The compensation and expenses of the members of the General Assembly may from time to time be reduced or increased by laws enacted by the General Assembly; however, no increase or decrease in the amount thereof shall take effect until the next general election for Representatives to the General Assembly. Provided, further, that the first General Assembly meeting after adoption of this amendment shall be allowed to set its own expenses. However, no member shall be paid expenses, nor travel allowances for more than ninety Legislative days of a regular session, excluding the organizational session, nor for more than thirty Legislative days of any extraordinary session.

This amendment shall take effect immediately upon adoption so that any member of the General Assembly elected at a general election wherein this amendment is approved shall be entitled to the compensation set herein. [As amended; Adopted in Convention May 12, 1953; approved at election November 3, 1953; Proclaimed by Governor, November 19, 1953; As amended; Adopted in Convention December 10, 1965; approved at election November 8, 1966; Proclaimed by Governor, December 2, 1966.]

**Sec. 24. Appropriation of public moneys.**--No public money shall be expended except pursuant to appropriations made by law. Expenditures for any fiscal year shall not exceed the state's revenues and reserves, including the proceeds of any debt obligation, for that year. No debt obligation, except as shall be repaid within the fiscal year of issuance, shall be authorized for the current operation of any state service or program, nor shall the proceeds of any debt obligation be expended for a purpose other than that for which it was authorized.

In no year shall the rate of growth of appropriations from state tax revenues exceed the estimated rate of growth of the state's economy as determined by law. No appropriation in excess of this limitation shall be made unless the General Assembly shall, by law containing no other

subject matter, set forth the dollar amount and the rate by which the limit will be exceeded.

Any law requiring the expenditure of state funds shall be null and void unless, during the session in which the act receives final passage, an appropriation is made for the estimated first year's funding.

No law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.

An accurate financial statement of the state's fiscal condition shall be published annually. [As amended; Adopted in Convention November 30, 1977; approved at election March 7, 1978; Proclaimed by Governor, March 31, 1978.]

**Sec. 25. Defaulters ineligible.**--No person who heretofore hath been, or may hereafter be, a collector or holder of Public Moneys, shall have a seat in either House of the General Assembly, or hold any other office under the State Government, until such person shall be accounted for, and paid into the Treasury, all sums for which he may be accountable or liable.

**Sec. 26. Ineligibility--Lucrative offices.**--No Judge of any Court of law or equity, Secretary of State, Attorney General, Register, Clerk of any court of Record, or person holding any office under the authority of the United States, shall have a seat in the General Assembly; nor shall any person in this State hold more than one lucrative office at the same time; provided, that no appointment in the militia, or to the office of Justice of the Peace, shall be considered a lucrative office, or operative as a disqualification to a seat in either House of the General Assembly.

**Sec. 27. Right of protest.**--Any member of either House of the General Assembly shall have liberty to dissent from and protest against, any act or resolve which he may think injurious to the Public or to any individual, and to have the reasons for his dissent entered on the journals.

**Sec. 28. Taxable property--Valuation--Rates.**--In accordance with the following provisions, all property real, personal or mixed shall be subject to taxation, but the Legislature may except such as may be held by the State, by Counties, Cities or Towns, and used exclusively for public or corporation purposes, and such as may be held and used for purposes purely religious, charitable, scientific, literary or educational, and shall except the direct product of the soil in the hands of the producer, and his

im- mediate vendee, and the entire amount of money deposited in an individual's personal or family checking or savings accounts. For purposes of taxation, property shall be classified into three classes, to wit: Real property, Tangible Personal Property and Intangible personal Property.

Real Property shall be classified into four (4) subclassifications and assessed as follows:

- (a) Public Utility Property, to be assessed at fifty-five (55%) percent of its value;
- (b) Industrial and Commercial Property, to be assessed at forty (40%) percent of its value;
- (c) Residential Property, to be assessed at twenty-five (25%) percent of its value, provided that residential property containing two (2) or more rental units is hereby defined as industrial and commercial property; and
- (d) Farm Property, to be assessed at twenty-five (25%) percent of its value.

House trailers, mobile homes, and all other similar movable structures used for commercial, industrial, or residential purposes shall be assessed as Real Property as an improvement to the land where located.

The Legislature shall provide, in such manner as it deems appropriate, tax relief to elderly low-income taxpayers through payments by the State to reimburse all or part of the taxes paid by such persons on owner-occupied residential property, but such reimbursement shall not be an obligation imposed, directly or indirectly, upon Counties, Cities, or Towns.

The Legislature may provide tax relief to home owners totally and permanently disabled, irrespective of age, as provided herein for the elderly.

Tangible Personal Property shall be classified into three (3) subclassifications and assessed as follows:

- (a) Public Utility Property, to be assessed at fifty-five (55%) percent of its value;
- (b) Industrial and Commercial Property, to be assessed at thirty (30%) percent of its value; and

(c) All other Tangible Personal Property, to be assessed at five (5%) percent of its value; provided, however, that the Legislature shall exempt Seven Thousand Five Hundred (\$7,500) Dollars worth of such Tangible Personal Property which shall cover personal household goods and furnishings, wearing apparel and other such tangible property in the hands of a taxpayer.

The Legislature shall have power to classify Intangible Personal Property into subclassifications and to establish a ratio of assessment to value in each class or subclass, and shall provide fair and equitable methods of apportionment of the value of same to this State for purposes of taxation. Banks, Insurance Companies, Loan and Investment Companies, Savings and Loan Associations, and all similar financial institutions, shall be assessed and taxed in such manner as the Legislature shall direct; provided that for the year 1973, or until such time as the Legislature may provide otherwise, the ratio of assessment to value of property presently taxed shall remain the same as provided by law for the year 1972; provided further that the taxes imposed upon such financial institutions, and paid by them, shall be in lieu of all taxes on the redeemable or cash value of all of their outstanding shares of capital stock, policies of insurance, customer savings and checking accounts, certificates of deposit, and certificates of investment, by whatever name called, including other intangible corporate property of such financial institutions.

The ratio of assessment to value of property in each class or subclass shall be equal and uniform throughout the State, the value and definition of property in each class or subclass to be ascertained in such manner as the Legislature shall direct. Each respective taxing authority shall apply the same tax rate to all property within its jurisdiction.

The Legislature shall have power to tax merchants, peddlers, and privileges, in such manner as they may from time to time direct, and the Legislature may levy a gross receipts tax on merchants and businesses in lieu of ad valorem taxes on the inventories of merchandise held by such merchants and businesses for sale or exchange. The portion of a Merchant's Capital used in the purpose of merchandise sold by him to non-residents and sent beyond the State, shall not be taxed at a rate higher than the ad valorem tax on property. The Legislature shall have power to levy a tax upon incomes derived from stocks and bonds that are not taxed ad valorem.

This amendment shall take effect on the first day of January, 1973. [As amended; Adopted in Convention September 14, 1971; Approved at



election August 3, 1972; Amendment approved at election, November 14, 1982.]

**Sec. 29. Counties and towns--Power to tax--Credit.**--The General Assembly shall have power to authorize the several counties and incorporated towns in this State, to impose taxes for County and Corporation purposes respectively, in such manner as shall be prescribed by law; and all property shall be taxed according to its value, upon the principles established in regard to State taxation. But the credit of no County, City or Town shall be given or loaned to or in aid of any person, company, association or corporation, except upon an election to be first held by the qualified voters of such county, city or town, and the assent of three-fourths of the votes cast at said election. Nor shall any county, city or town become a stockholder with others in any company, association or corporation except upon a like election, and the assent of a like majority. But the counties of Grainger, Hawkins, Hancock, Union, Campbell, Scott, Morgan, Grundy, Sumner, Smith, Fentress, Van Buren, and the new County herein authorized to be established out of fractions of Sumner, Macon and Smith counties, White, Putnam, Overton, Jackson, Cumberland, Anderson, Henderson, Wayne, Cocke, Coffee, Macon, Marshall, and Roane shall be excepted out of the provisions of this Section so far that the assent of a majority of the qualified voters of either of said counties voting on the question shall be sufficient when the credit of such county is given or loaned to any person, association or corporation; Provided, that the exception of the counties above named shall not be in force beyond the year one thousand eight hundred and eighty; and after that period they shall be subject to the three-fourths majority applicable to the other counties of the State.

**Sec. 30. Articles not taxable--Inspection fees.**--No article, manufactured of the produce of this State shall be taxed otherwise than to pay inspection fees.

**Sec. 31. Acts forbidden the State.**--The credit of this State shall not be hereafter loaned or given to or in aid of any person, association, company, corporation or municipality: nor shall the State become the owner in whole or in part of any bank or a stockholder with others in any association, company, corporation or municipality.

**Sec. 32. Amendments to Constitution of United States.**--No Convention or General Assembly of this State shall act upon any amendment of the Constitution of the United States proposed by Congress to the several States; unless such Convention or General Assembly shall have been

elected after such amendment is submitted.

**Sec. 33. No State bonds to defaulting railroads.**--No bonds of the State shall be issued to any Rail Road Company which at the time of its application for the same shall be in default in paying the interest upon State bonds previously loaned to it or that shall hereafter and before such application sell or absolutely dispose of any State bonds loaned to it for less than par.

### ARTICLE III EXECUTIVE DEPARTMENT

**Sec. 1. Governor's executive power.**--The Supreme Executive power of this State shall be vested in a Governor.

**Sec. 2. Election of Governor.**--The Governor shall be chosen by the electors of the members of the General Assembly, at the time and places where they shall respectively vote for the members thereof. The returns of every election for Governor shall be sealed up, and transmitted to the seat of Government, by the returning officers, directed to the Speaker of the Senate, who shall open and publish them in the presence of a majority of the members of each House of the General Assembly. The person having the highest number of votes shall be Governor; but if two or more shall be equal and highest in votes, one of them shall be chosen Governor by joint vote of both Houses of the General Assembly. Contested elections for governor shall be determined by both Houses of the General Assembly, in such manner as shall be prescribed by law.

**Sec. 3. Governor's qualifications.**--He shall be at least thirty years of age, shall be a citizen of the United States, and shall have been a citizen of this State seven years next before his election.

**Sec. 4. Governor's term of office.**--The Governor shall be elected to hold office for four years and until a successor is elected and qualified. A person may be eligible to succeed in office for additional four-year terms, provided that no person presently serving or elected hereafter shall be eligible for election to more than two terms consecutively, including an election to a partial term.

One succeeding to the office vacated during the first eighteen calendar months of the term shall hold office until a successor is elected for the remainder of the term at the next election of members of the General Assembly and qualified pursuant to this Constitution. One succeeding to

the office vacated after the first eighteen calendar months of the term shall continue to hold office for the remainder of the full term. [As amended; Adopted in Convention May 19, 1953; approved at election November 3, 1953; Proclaimed by Governor, November 19, 1953; As amended; Adopted in Convention October 10, 1977; approved at election March 7, 1978; Proclaimed by Governor, March 31, 1978.]

**Sec. 5. Governor as commander-in-chief--Calling out militia.**--He shall be commander-in-chief of the Army and Navy of this State, and of the militia, except when they shall be called into the service of the United States: But the Militia shall not be called into service except in case of rebellion or invasion, and then only when the General Assembly shall declare, by law, that the public safety requires it.

**Sec. 6. Pardons and reprieves.**--He shall have power to grant reprieves and pardons, after conviction, except in cases of impeachment.

**Sec. 7. Governor's compensation.**--He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the period for which he shall have been elected.

**Sec. 8. Governor may require information.**--He may require information in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

**Sec. 9. Governor may convene the legislature.**--He may, on extraordinary occasions, convene the General Assembly by proclamation, in which he shall state specifically the purposes for which they are to convene; but they shall enter on no legislative business except that for which they were specifically called together.

**Sec. 10. Governor to execute laws.**--He shall take care that the laws be faithfully executed.

**Sec. 11. Governor to give information to the legislature.**--He shall, from time to time, give to the General Assembly information of the state of the government, and recommend for their consideration such measures as he shall judge expedient.

**Sec. 12. Vacancy in office of governor.**--In case of the removal of the Governor from office, or of his death, or resignation, the powers and duties of the office shall devolve on the Speaker of the Senate; and in case of the death, removal from office, or resignation of the Speaker of the

Senate, the powers and duties of the office shall devolve on the Speaker of the House of Representatives.

**Sec. 13. Ineligibility for governorship.**--No member of Congress, or person holding any office under the United States, or this State, shall execute the office of Governor.

**Sec. 14. Governor to make temporary appointments.**--When any officer, the right of whose appointment is by this Constitution vested in the General Assembly, shall, during the recess, die, or the office, by the the expiration of the term, or by other means, become vacant, the Governor shall have the power to fill such vacancy by granting a temporary commission, which shall expire at the end of the next session of the Legislature.

**Sec. 15. Seal of State.**--There shall be a Seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called the Great Seal of the State of Tennessee.

**Sec. 16. Grants and commissions to be sealed and signed by the governor.**--All grants and commissions shall be in the name and by the authority of the State of Tennessee, be sealed with the State Seal, and signed by the Governor.

**Sec. 17. Secretary of State.**--A Secretary of State shall be appointed by joint vote of the General Assembly and commissioned during the term of four years; he shall keep a fair register of all the official acts and proceedings of the Governor; and shall, when required lay the same, and all papers, minutes and vouchers relative thereto, before the General Assembly; and shall perform such other duties as shall be enjoined by law.

**Sec. 18. Bills to be approved by the governor**--Governor's veto-Bills passed over governor's veto.--Every Bill which may pass both Houses of the General Assembly shall, before it becomes a law, be presented to the Governor for his signature. If he approve, he shall sign it, and the same shall become a law; but if he refuse to sign it, he shall return it with his objections thereto, in writing, to the house in which it originated; and said House shall cause said objections to be entered at large upon its journal, and proceed to reconsider the Bill. If after such reconsideration, a majority of all the members elected to that House shall agree to pass the Bill, notwithstanding the objections of the Executive, it shall be sent, with said objections, to the other House, by which it shall be likewise reconsidered.

If approved by a majority of the whole number elected to that House, it shall become a law. The votes of both Houses shall be determined by yeas and nays, and the names of all the members voting for or against the Bill shall be entered upon the journals of their respective Houses.

If the Governor shall fail to return any bill with his objections in writing within ten calendar days (Sundays excepted) after it shall have been presented to him, the same shall become a law without his signature. If the General Assembly by its adjournment prevents the return of any bill within said ten-day period, the bill shall become a law, unless disapproved by the Governor and filed by him with his objections in writing in the office of the Secretary of State within said ten-day period.

Every joint resolution or order (except on question of adjournment and proposals of specific amendments to the Constitution) shall likewise be presented to the Governor for his signature, and on being disapproved by him shall in like manner, be returned with his objections; and the same before it shall take effect shall be repassed by a majority of all the members elected to both houses in the manner and according to the rules prescribed in case of a bill.

The Governor may reduce or disapprove the sum of money appropriated by any one or more items or parts of items in any bill appropriating money, while approving other portions of the bill. The portions so approved shall become law, and the items or parts of items disapproved or reduced shall be void to the extent that they have been disapproved or reduced unless repassed as hereinafter provided. The Governor, within ten calendar days (Sundays excepted) after the bill shall have been presented to him, shall report the items or parts of items disapproved or reduced with his objections in writing to the House in which the bill originated, or if the General Assembly shall have adjourned, to the office of the Secretary of State. Any such items or parts of items so disapproved or reduced shall be restored to the bill in the original amount and become law if repassed by the General Assembly according to the rules and limitations prescribed for the passage of other bills over the executive veto. [As amended; Adopted in Convention May 20, 1953; approved at election November 3, 1953; Proclaimed by Governor, November 19, 1953; As amended; Adopted in Convention October 18, 1977; approved at election March 7, 1978; Proclaimed by Governor, March 31, 1978.]

#### ARTICLE IV ELECTIONS

**Sec. 1. Right to vote--Election precincts--**Military duty.--Every person, being eighteen years of age, being a citizen of the United States, being a resident of the State for a period of time as prescribed by the General Assembly, and being duly registered in the county of residence for a period of time prior to the day of any election as prescribed by the General Assembly, shall be entitled to vote in all federal, state, and local elections held in the county or district in which such person resides. All such requirements shall be equal and uniform across the state, and there shall be no other qualification attached to the right of suffrage.

The General Assembly shall have power to enact laws requiring voters to vote in the election precincts in which they may reside, and laws to secure the freedom of elections and the purity of the ballot box.

All male citizens of this State shall be subject to the performance of military duty, as may be prescribed by law. [As amended; Adopted in Convention May 25, 1953; Approved at election November 3, 1953; Proclaimed by Governor, November 19, 1953; As amended; Adopted in Convention October 20, 1977; approved at election March 7, 1978; Proclaimed by Governor, March 31, 1978.

**Sec. 2. Right of suffrage may be excluded for crime.--**Laws may be passed excluding from the right of suffrage persons who may be convicted of infamous crimes.

**Sec. 3. Privilege of voters.--**Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest or summons, during their attendance at elections, and in going to and returning from them.

**Sec. 4. Mode of voting.--**In all elections to be made by the General Assembly, the members thereof shall vote viva voce, and their votes shall be entered on the journal. All other elections shall be by ballot.

## ARTICLE V IMPEACHMENTS

**Sec. 1. Impeachment.--**The House of Representatives shall have the sole power of impeachment.

**Sec. 2. Trial of impeachments.--**All impeachments shall be tried by the Senate. When sitting for that purpose the Senators shall be upon oath or affirmation, and the Chief Justice of the Supreme Court, or if he be on

trial, the Senior Associate Judge, shall preside over them. No person shall be convicted without the concurrence of two-thirds of the Senators sworn to try the officer impeached.

**Sec. 3. How prosecuted.**--The House of Representatives shall elect from their own body three members, whose duty it shall be to prosecute impeachments. No impeachment shall be tried until the Legislature shall have adjourned sine die, when the Senate shall proceed to try such impeachment.

**Sec. 4. Who may be impeached.**--The Governor, Judges of the Supreme Court, Judges of Inferior Courts, Chancellors, Attorneys for the State, Treasurer, Comptroller and Secretary of State, shall be liable to impeachment, whenever they may, in the opinion of the House of Representatives, commit any crime in their official capacity which may require disqualification; but judgment shall only extend to removal from office, and disqualification to fill any office thereafter. The party shall, nevertheless, be liable to indictment, trial, judgment and punishment according to law. The Legislature now has, and shall continue to have, power to relieve from the penalties imposed, any person disqualified from holding office by the judgment of a Court of Impeachment.

**Sec. 5. Officers liable to indictment and removal from office.**--Justices of the Peace, and other civil officers, not hereinbefore mentioned, for crimes or misdemeanors in office, shall be liable to indictment in such courts as the Legislature may direct; and upon conviction, shall be removed from office by said court, as if found guilty on impeachment; and shall be subject to such other punishment as may be prescribed by law.

## ARTICLE VI JUDICIAL DEPARTMENT

**Sec. 1. Judicial power.**--The judicial power of this State shall be vested in one Supreme Court and in such Circuit, Chancery and other inferior Courts as the Legislature shall from time to time, ordain and establish; in the Judges thereof, and in Justices of the Peace. The Legislature may also vest such jurisdiction in Corporation Courts as may be deemed necessary. Courts to be holden by Justices of the Peace may also be established.

**Sec. 2. Supreme court.**--The Supreme Court shall consist of five Judges, of whom not more than two shall reside in any one of the grand divisions of the State. The Judges shall designate one of their own number who

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shall preside as Chief Justice. The concurrence of three of the Judges shall in every case be necessary to a decision. The jurisdiction of this Court shall be appellate only, under such restrictions and regulations as may from time to time be prescribed by law; but it may possess such other jurisdiction as is now conferred by law on the present Supreme Court. Said Court shall be held at Knoxville, Nashville and Jackson.

**Sec. 3. Supreme court judges.**--The Judges of the Supreme Court shall be elected by the qualified voters of the State. The Legislature shall have power to prescribe such rules as may be necessary to carry out the provisions of section two of this article. Every Judge of the Supreme Court shall be thirty-five years of age, and shall before his election have been a resident of the State for five years. His term of service shall be eight years.

**Sec. 4. Judges of inferior courts.**--The Judges of the Circuit and Chancery Courts, and of other inferior Courts, shall be elected by the qualified voters of the district or circuit to which they are to be assigned. Every Judge of such Courts shall be thirty years of age, and shall before his election, have been a resident of the State for five years and of the circuit or district one year. His term of service shall be eight years.

**Sec. 5. Attorney general and reporter.**--An Attorney General and Reporter for the State, shall be appointed by the Judges of the Supreme Court and shall hold his office for a term of eight years. An Attorney for the State for any circuit or district, for which a Judge having criminal jurisdiction shall be provided by law, shall be elected by the qualified voters of such circuit or district, and shall hold his office for a term of eight years, and shall have been a resident of the State five years, and of the circuit or district one year. In all cases where the Attorney for any district fails or refuses to attend and prosecute according to law, the Court shall have power to appoint an Attorney pro tempore.

**Sec. 6. Removal of judges and attorneys.**--Judges and Attorneys for the State may be removed from office by a concurrent vote of both Houses of the General Assembly, each House voting separately; but two-thirds of the members to which each House may be entitled must concur in such vote. The vote shall be determined by ayes and noes, and the names of the members voting for or against the Judge or Attorney for the State together with the cause or causes of removal, shall be entered on the Journals of each House respectively. The Judge or Attorney for the State, against whom the legislature may be about to proceed, shall receive notice thereof accompanied with a copy of the causes alleged for his removal, at least ten



days before the day on which either House of the General Assembly shall act thereupon.

**Sec. 7. Compensation of judges.**--The Judges of the Supreme or Inferior Courts, shall, at stated times, receive a compensation for their services, to be ascertained by law, which shall not be increased or diminished during the time for which they are elected. They shall not be allowed any fees or perquisites of office nor hold any other office of trust or profit under this State or the United States.

**Sec. 8. Jurisdiction of inferior courts.**--The jurisdiction of the Circuit, Chancery and other Inferior Courts, shall be as now established by law, until changed by the Legislature. ✕

**Sec. 9. Judge's charge.**--The Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

**Sec. 10. Certiorari.**--The Judges or Justices of the Inferior Courts of Law and Equity, shall have power in all civil cases, to issue writs of certiorari to remove any cause or the transcript of the record thereof, from any inferior jurisdiction, into such court of law, on sufficient cause, supported by oath or affirmation.

**Sec. 11. Incompetency of judges--Special judges.**--No Judge of the Supreme or Inferior Courts shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by affinity of consanguinity, within such degrees as may be prescribed by law, or in which he may have been of counsel, or in which he may have presided in any inferior Court, except by consent of all the parties. In case all or any of the Judges of the Supreme Court shall thus be disqualified from presiding on the trial of any cause or causes, the Court, or the Judges thereof, shall certify the same to the Governor of the State, and he shall forthwith specially commission the requisite number of men, of law knowledge, for the trial and determination thereof. The Legislature may by general laws make provision that special Judges may be appointed, to hold any Courts the Judge of which shall be unable or fail to attend or sit; or to hear any cause in which the Judge may be incompetent.

**Sec. 12. Requisites of writs and process.**--All writs and other process shall run in the name of the State of Tennessee and bear test and be signed by the respective clerks. Indictments shall conclude, "against the peace and dignity of the State".

**Sec. 13. Clerks of courts.**--Judges of the Supreme Court shall appoint their clerks who shall hold their offices for six years. Chancellors shall appoint their clerks and masters, who shall hold their offices for six years. Clerks of the Inferior Courts holden in the respective Counties or Districts, shall be elected by the qualified voters thereof for the term of four years. Any Clerk may be removed from office for malfeasance, incompetency or neglect of duty, in such manner as may be prescribed by law.

**Sec. 14. Fines exceeding fifty dollars to be assessed by jury.**-- No fine shall be laid on any citizen of this State that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine should be more than fifty dollars.

**Sec. 15. Districts in counties**--Justices and constables. [Repealed.]

## ARTICLE VII STATE AND COUNTY OFFICERS

**Sec. 1. County government--Elected officers--Legislative body --** Alternate forms of government.--The qualified voters of each county shall elect for terms of four years a legislative body, a county executive, a Sheriff, a Trustee, a Register, a County Clerk and an Assessor of Property. Their qualifications and duties shall be prescribed by the General Assembly. Any officer shall be removed for malfeasance or neglect of duty as prescribed by the General Assembly.

The legislative body shall be composed of representatives from districts in the county as drawn by the county legislative body pursuant to statutes enacted by the General Assembly. Districts shall be reapportioned at least every ten years based upon the most recent federal census. The legislative body shall not exceed twenty-five members and no more than three representatives shall be elected from a district. Any county organized under the consolidated government provisions of Article XI, Section 9 of this Constitution shall be exempt from having a county executive and a county legislative body as described in this paragraph.

The General Assembly may provide alternate forms of county government including the right to charter and the manner by which a referendum may be called. The new form of government shall replace the existing form if approved by a majority of the voters in the referendum.

No officeholder's current term shall be diminished by the ratification of this article. [As amended; Adopted in Convention July 24, 1959; approved at election November 8, 1960; Proclaimed by Governor, December 1, 1960; As amended; Adopted in Convention December 6, 1977; approved at election March 7, 1978; Proclaimed by Governor, March 31, 1978.]

**Sec. 2. Vacancies.**--Vacancies in county offices shall be filled by the county legislative body, and any person so appointed shall serve until a successor is elected at the next election occurring after the vacancy and is qualified. [As amended; Adopted in Convention December 6, 1977; approved at election March 7, 1978; Proclaimed by Governor, March 31, 1978.]

**Sec. 3. Treasurer and comptroller.**--There shall be a Treasurer or Treasurers and a Comptroller of the Treasury appointed for the State, by the joint vote of both houses of the General Assembly, who shall hold their offices for two years.

**Sec. 4. Other elections and vacancies.**--The election of all officers, and the filling of all vacancies not otherwise directed or provided by this Constitution, shall be made in such manner as the Legislature shall direct.

**Sec. 5. Civil officers--Election--Vacancies.**--Elections for Judicial and other civil officers shall be held on the first Thursday in August, one thousand eight hundred and seventy, and forever thereafter on the first Thursday in August next preceding the expiration of their respective terms of service. The term of each officer so elected shall be computed from the first day of September next succeeding his election. The term of office of the Governor and of other executive officers shall be computed from the fifteenth of January next after the election of the Governor. No appointment or election to fill a vacancy shall be made for a period extending beyond the unexpired term. Every officer shall hold his office until his successor is elected or appointed, and qualified. No special election shall be held to fill a vacancy in the office of Judge or District Attorney, but at the time herein fixed for the biennial election of civil officers; and such vacancy shall be filled at the next Biennial election recurring more than thirty days after the vacancy occurs.

## ARTICLE VIII MILITIA

**Sec. 1. Militia officers to be elected.**--All militia officers shall be elected by persons subject to military duty, within the bounds of their several

companies, battalions, regiments, brigades and divisions, under such rules and regulations as the Legislature may from time to time direct and establish.

**Sec. 2. Staff officers to be appointed.**--The Governor shall appoint the Adjutant-General and his other staff officers; the Major-Generals, Brigadier-Generals, and commanding officers of regiments, shall respectively appoint their staff officers.

**Sec. 3. Exemptions from attending musters.**--The Legislature shall pass laws exempting citizens belonging to any sect or denomination of religion, the tenets of which are known to be opposed to the bearing of arms, from attending private and general musters.

## ARTICLE IX DISQUALIFICATIONS

**Sec. 1. Ineligibility of ministers and priests to seats in legislature.**--Whereas Ministers of the Gospel are by their profession, dedicated to God and the care of souls, and ought not to be diverted from the great duties of their functions; therefore, no Minister of the Gospel, or priest of any denomination whatever, shall be eligible to a seat in either House of the Legislature.

**Sec. 2. No atheist shall hold a civil office.**--No person who denies the being of God, or a future state of rewards and punishments, shall hold any office in the civil department of this State.

**Sec. 3. Duelists shall hold no office.**--Any person who shall, after the adoption of this Constitution, fight a duel, or knowingly be the bearer of a challenge to fight a duel, or send or accept a challenge for that purpose, or be an aider or abettor in fighting a duel, shall be deprived of the right to hold any office of honor or profit in this State, and shall be punished otherwise, in such manner as the Legislature may prescribe.

## ARTICLE X OATHS, BRIBERY OF ELECTORS, NEW COUNTIES

**Sec. 1. Oath of office.**--Every person who shall be chosen or appointed to any office of trust or profit under this Constitution, or any law made in pursuance thereof, shall, before entering on the duties thereof, take an oath to support the Constitution of this State, and of the United States, and an oath of office.

**Sec. 2. Oath of members of the general assembly.**--Each member of the Senate and House of Representatives, shall before they proceed to business take an oath or affirmation to support the Constitution of this State, and of the United States and also the following oath: I . . . . . do solemnly swear (or affirm) that as a member of this General Assembly, I will, in all appointments, vote without favor, affection, partiality, or prejudice; and that I will not propose or assent to any bill, vote or resolution, which shall appear to me injurious to the people, or consent to any act or thing, whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared by the Constitution of this State.

**Sec. 3. Punishment of electors and candidates for bribery.**--Any elector who shall receive any gift or reward for his vote, in meat, drink, money or otherwise, shall suffer such punishment as the law shall direct. And any person who shall directly or indirectly give, promise or bestow any such reward to be elected, shall thereby be rendered incapable, for six years, to serve in the office for which he was elected, and be subject to such further punishment as the legislature shall direct.

**Sec. 4. New counties**--Approach of county lines to courthouse--Limit to reduction of counties--Exceptions--Vote necessary to detach fractions for formation of new counties or to remove a county seat--Liability for existing debt.--New Counties may be established by the Legislature to consist of not less than two hundred and seventy-five square miles, and which shall contain a population of seven hundred qualified voters; no line of such County shall approach the Court House of any old County from which it may be taken nearer than eleven miles, nor shall such old County be reduced to less than five hundred square miles. But the following exceptions are made to the foregoing provisions viz: New Counties may be established by the present or any succeeding Legislature out of the following Territory to wit: Out of that portion of Obion County which lies west of low water mark of Reel Foot Lake: Out of fractions of Sumner, Macon and Smith Counties; but no line of such new County shall approach the Court House of Sumner or of Smith counties nearer than ten miles, nor include any part of Macon County lying within nine and a half miles of the Court House of said County nor shall more than twenty square miles of Macon County nor any part of Sumner County lying due west of the western boundary of Macon County, be taken in the formation of said new County: Out of fractions of Grainger and Jefferson Counties but no line of such new County shall include any part of Grainger County north of the Holston River; nor shall any line thereof approach the Court House of Jefferson County nearer than eleven miles. Such new County

may include any other Territory which is not excluded by any general provision of this Constitution: Out of fractions of Jackson and Overton Counties but no line of such new County shall approach the Court House of Jackson or Overton Counties nearer than ten miles, nor shall such County contain less than four hundred qualified voters, nor shall the area of either of the old Counties be reduced below four hundred and fifty square miles: Out of fractions of Roane, Monroe, and Blount Counties, around the town of Loudon; but no line of such new County shall ever approach the towns of Maryville, Kingston, or Madisonville, nearer than eleven miles, except that on the south side of the Tennessee River, said lines may approach as near as ten miles to the Court House of Roane County.

The Counties of Lewis, Cheatham, and Sequatchie, as now established by Legislative enactments are hereby declared to be Constitutional Counties. No part of Bledsoe County shall be taken to form a new County or a part thereof or be attached to any adjoining County. That portion of Marion County included within the following boundaries, beginning on the Grundy and Marion County line at the Nickajack trace and running about six hundred yards west of Ben Poseys, to where the Tennessee Coal Rail Road crosses the line, running thence southeast through the Pocket near William Summars crossing the Battle Creek Gulf at the corner of Thomas Wootons field, thence running across the Little Gizzard Gulf at Raven Point, thence in a direct line to the Bridge crossing the Big Fiery Gizzard, thence in a direct line to the mouth of Holy Water Creek, thence up said Creek to the Grundy County line, and thence with said line to the beginning; is hereby detached from Marion county, and attached to the county of Grundy. No part of a county shall be taken off to form a new County or a part thereof without the consent of two-thirds of the qualified voters in such part taken off; and where an old County is reduced for the purpose of forming a new one, the Seat of Justice in said old County shall not be removed without the concurrence of two-thirds of both branches of the Legislature, nor shall the Seat of Justice of any County be removed without the concurrence of two-thirds of the qualified voters of the County. But the foregoing provision requiring a two-thirds majority of the voters of a County to remove its County seat shall not apply to the Counties of Obion and Cocke. The fractions taken from old Counties to form new Counties or taken from one County and added to another shall continue liable for their pro rata of all debts contracted by their respective Counties prior to the separation, and be entitled to their proportion of any stocks or credits belonging to such old Counties.

**Sec. 5. To vote with old county.**--The citizens who may be included in

any new County shall vote with the County or Counties from which they may have been stricken off, for members of Congress, for Governor and for members of the General Assembly until the next apportionment of members to the General Assembly after the establishment of such new County.

## ARTICLE XI MISCELLANEOUS PROVISIONS

**Sec. 1. Existing laws not affected by this Constitution.--** All laws and ordinances now in force and use in this State, not inconsistent with this Constitution, shall continue in force and use until they shall expire, be altered or repealed by the Legislature; but ordinances contained in any former Constitution or schedule thereto are hereby abrogated.

**Sec. 2. No impairment of rights.--** Nothing contained in this Constitution shall impair the validity of any debts or contracts, or affect any rights of property or any suits, actions, rights of action or other proceedings in Courts of Justice.

**Sec. 3. Amendments to Constitution.--** Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives, and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals with the yeas and nays thereon, and referred to the general assembly then next to be chosen; and shall be published six months previous to the time of making such choice; and if in the general assembly then next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people at the next general election in which a Governor is to be chosen. And if the people shall approve and ratify such amendment or amendments by a majority of all the citizens of the State voting for Governor, voting in their favor, such amendment or amendments shall become a part of this Constitution. When any amendment or amendments to the Constitution shall be proposed in pursuance of the foregoing provisions the same shall at each of said sessions be read three times on three several days in each house.

The Legislature shall have the right by law to submit to the people, at any general election, the question of calling a convention to alter, reform, or abolish this Constitution, or to alter, reform or abolish any specified part

or parts of it; and when, upon such submission, a majority of all the voters voting upon the proposal submitted shall approve the proposal to call a convention, the delegates to such convention shall be chosen at the next general election and the convention shall assemble for the consideration of such proposals as shall have received a favorable vote in said election, in such mode and manner as shall be prescribed. No change in, or amendment to, this Constitution proposed by such convention shall become effective, unless within the limitations of the call of the convention, and unless approved and ratified by a majority of the qualified voters voting separately on such change or amendment at an election to be held in such manner and on such date as may be fixed by the convention. No such convention shall be held oftener than once in six years. [As amended: Adopted in Convention May 27, 1953; Approved at election November 3, 1953; Proclaimed by Governor November 19, 1953.]

**Sec. 4. Power to grant divorces.**--The Legislature shall have no power to grant divorces; but may authorize the Courts of Justice to grant them for such causes as may be specified by law; but such laws shall be general and uniform in their operation throughout the State.

**Sec. 5. Lotteries.** The legislature shall have no power to authorize lotteries for any purpose, and shall pass laws to prohibit the sale of lottery tickets in this state, except that the legislature may authorize a state lottery if the net proceeds of the lottery's revenues are allocated to provide financial assistance to citizens of this state to enable such citizens to attend post-secondary educational institutions located within this state. The excess after such allocations from such net proceeds from the lottery would be appropriated to:

- (1) Capital outlay projects for K-12 educational facilities; and
- (2) Early learning programs and after school programs.

Such appropriation of funds to support improvements and enhancements for educational programs and purposes and such net proceeds shall be used to supplement, not supplant, non-lottery educational resources for educational programs and purposes.

All other forms of lottery not authorized herein are expressly prohibited unless authorized by a two-thirds vote of all members elected to each house of the general assembly for an annual event operated for the benefit of a 501(c)(3) organization located in this state, as defined by the 2000 United States Tax Code or as may be amended from time to time.



A state lottery means a lottery of the type such as in operation in Georgia, Kentucky and Virginia in 2000, and the amendment to Article XI, Section 5 of the Constitution of the State of Tennessee provided for herein does not authorize games of chance associated with casinos, including, but not limited to, slot machines, roulette wheels, and the like.

The state lottery authorized in this section shall be implemented and administered uniformly throughout the state in such manner as the legislature, by general law, deems appropriate.

(Amendment adopted in Convention Feb. 15, 2001, and approved at election Nov. 5, 2002.)

**Sec. 6. Changing names--Adoption--Legitimation.**--The legislature shall have no power to change the names of persons, or to pass acts adopting or legitimatizing persons; but shall, by general laws, confer this power on the Courts.

**Sec. 7. Interest.**--The General Assembly shall define and regulate interest, and set maximum effective rates thereof.

If no applicable statute is hereafter enacted, the effective rate of interest collected shall not exceed ten percent (10%) per annum.

All provisions of existing statutes regulating rates of interest and other charges on loans shall remain in full force and effect until July 1, 1980, unless earlier amended or repealed. [As amended; Adopted in Convention December 1, 1977; approved at election March 7, 1978; Proclaimed by Governor, March 31, 1978.]

**Sec. 8. General laws only to be passed.**--The Legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals, rights, privileges, immunities, [immunities] or exemptions other than such as may be, by the same law extended to any member of the community, who may be able to bring himself within the provisions of such law. No corporation shall be created or its powers increased or diminished by special laws but the General Assembly shall provide by general laws for the organization of all corporations, hereafter created, which laws may, at any time, be altered or repealed and no such alteration or repeal shall interfere with or divest rights which have become vested.

**Sec. 9. Power over local affairs** --Home rule for cities and counties-- Consolidation of functions.--The Legislature shall have the right to vest such powers in the Courts of Justice, with regard to private and local affairs, as may be expedient.

The General Assembly shall have no power to pass a special, local or private act having the effect of removing the incumbent from any municipal or county office or abridging the term or altering the salary prior to the end of the term for which such public officer was selected, and any act of the General Assembly private or local in form or effect applicable to a particular county or municipality either in its governmental or its proprietary capacity shall be void and of no effect unless the act by its terms either requires the approval by a two-thirds vote of the local legislative body of the municipality or county, or requires approval in an election by a majority of those voting in said election in the municipality or county affected.

Any municipality may by ordinance submit to its qualified voters in a general or special election the question: "Shall this municipality adopt home rule?"

In the event of an affirmative vote by a majority of the qualified voters voting thereon, and until the repeal thereof by the same procedure, such municipality shall be a home rule municipality, and the General Assembly shall act with respect to such home rule municipality only by laws which are general in terms and effect.

Any municipality after adopting home rule may continue to operate under its existing charter, or amend the same, or adopt and thereafter amend a new charter to provide for its governmental and proprietary powers, duties and functions, and for the form, structure, personnel and organization of its government, provided that no charter provision except with respect to compensation of municipal personnel shall be effective if inconsistent with any general act of the General Assembly and provided further that the power of taxation of such municipality shall not be enlarged or increased except by general act of the General Assembly. The General Assembly shall by general law provide the exclusive methods by which municipalities may be created, merged, consolidated and dissolved and by which municipal boundaries may be altered.

A charter or amendment may be proposed by ordinance of any home rule municipality, by a charter commission provided for by act of the General Assembly and elected by the qualified voters of a home rule municipality

voting thereon or, in the absence of such act of the General Assembly, by a charter commission of seven (7) members, chosen at large not more often than once in two (2) years, in a municipal election pursuant to petition for such election signed by qualified voters of a home rule municipality not less in number than ten (10%) percent of those voting in the then most recent general municipal election.

It shall be the duty of the legislative body of such municipality to publish any proposal so made and to submit the same to its qualified voters at the first general state election which shall be held at least sixty (60) days after such publication and such proposal shall become effective sixty (60) days after approval by a majority of the qualified voters voting thereon.

The General Assembly shall not authorize any municipality to tax incomes, estate, or inheritances, or to impose any other tax not authorized by Sections 28 or 29 of Article II of this Constitution. Nothing herein shall be construed as invalidating the provisions of any municipal charter in existence at the time of the adoption of this amendment.

The General Assembly may provide for the consolidation of any or all of the governmental and corporate functions now or hereafter vested in municipal corporations with the governmental and corporate functions now or hereafter vested in the counties in which such municipal corporations are located; provided, such consolidations shall not become effective until submitted to the qualified voters residing within the municipal corporation and in the county outside thereof, and approved by a majority of those voting within the municipal corporation and by a majority of those voting in the county outside the municipal corporation. [As amended: Adopted in Convention June 4, 1953; Approved at election November 3, 1953; Proclaimed by Governor, November 19, 1953.]

**Sec. 10. Internal improvements to be encouraged.**--A well regulated system of internal improvement is calculated to develop the resources of the State, and promote the happiness and prosperity of her citizens; therefore it ought to be encouraged by the General Assembly.

**Sec. 11. Homestead and personal property exemptions.**--There shall be a homestead exemption from execution in an amount of five thousand dollars or such greater amount as the the General Assembly may establish. The General Assembly shall also establish personal property exemptions. The definition and application of the homestead and personal property exemptions and the manner in which they may be waived shall be as prescribed by law. [As amended; Adopted in Convention October 7, 1977;

Approved at election March 7, 1978; Proclaimed by Governor, March 31, 1978.]

**Sec. 12. Education's inherent value--Public schools--Support of higher education.**--The State of Tennessee recognizes the inherent value of education and encourages its support. The General Assembly shall provide for the maintenance, support and eligibility standards of a system of free public schools. The General Assembly may establish and support such postsecondary educational institutions, including public institutions of higher learning, as it determines. [As amended; Adopted in Convention October 11, 1977; approved at election March 7, 1978; Proclaimed by Governor, March 31, 1978.]

**Sec. 13. Game and fish.**--The General Assembly shall have power to enact laws for the protection and preservation of Game and Fish, within the State, and such laws may be enacted for and applied and enforced in particular Counties or geographical districts, designated by the General Assembly.

**Sec. 14. Racial intermarriage.** -- [Repealed.]

**Sec. 15. Religious holidays.**--No person shall in time of peace be required to perform any service to the public on any day set apart by his religion as a day of rest.

**Sec. 16. Bill of rights to remain inviolate.**--The declaration of rights hereto prefixed is declared to be a part of the Constitution of this State, and shall never be violated on any pretence whatever. And to guard against transgression of the high powers we have delegated, we declare that everything in the bill of rights contained, is excepted out of the General powers of government, and shall forever remain inviolate.

**Sec. 17. County offices.**--No County office created by the Legislature shall be filled otherwise than by the people or the County Court.

## SCHEDULE

**Sec. 1. Terms of public officers--Appointments--Exceptions.**-- That no inconvenience may arise from a change of the Constitution, it is declared that the Governor of the State, the members of the General Assembly and all officers elected at or after the general election of March one thousand eight hundred and seventy, shall hold their offices for the terms prescribed in this Constitution.

Officers appointed by the courts shall be filled by appointment, to be made and to take effect during the first term of the court held by Judges elected under this Constitution.

All other officers shall vacate their places thirty days after the day fixed for the election of their successors under this Constitution.

The Secretary of State, Comptroller and Treasurer shall hold their offices until the first session of the present General Assembly occurring after the ratification of this Constitution and until their successors are elected and qualified.

The officers then elected shall hold their offices until the fifteenth day of January one thousand eight hundred and seventythree.

**Sec. 2. Supreme Court judges--Vacancies--**Attorney general and reporter.--At the first election of Judges under this Constitution there shall be elected six Judges of the Supreme Court, two from each grand division of the State who shall hold their offices for the term herein prescribed.

In the event any vacancy shall occur in the office of either of said Judges at any time after the first day of January one thousand eight hundred and seventy-three it shall remain unfilled and the Court shall from that time be constituted of five Judges. While the Court shall consist of six Judges they may sit in two sections, and may hear and determine causes in each at the same time, but not in different grand divisions at the same time.

When so sitting, the concurrence of two Judges shall be necessary to a decision.

The Attorney General and Reporter for the State shall be appointed after the election and qualification of the Judges of the Supreme Court herein provided for.

**Sec. 3. Oath of office mandatory.--**Every Judge and every officer of the executive department of this State and every Sheriff holding over under this Constitution, shall, within twenty days after the ratification of this Constitution is proclaimed, take an oath to support the same, and the failure of any officer to take such oath shall vacate his office.

**Sec. 4. Statute of limitations.--**The time which has elapsed from the sixth day of May one thousand eight hundred and sixty one until the first day of January one thousand eight hundred and sixty seven shall not be computed, in any case affected by the statutes of limitation, nor shall any

writ of error be affected by such lapse of time.

Done in Convention at Nashville the twenty-third day of February in the year of our Lord one thousand eight hundred and seventy, and of the Independence of the United States, the ninety fourth.

Read the 1796 constitution of Tennessee.

Read the 1835 constitution of Tennessee.

Read the constitutional history of Tennessee.